

Council Substitute for
Council Substitute for House Bill No. 873

An act relating to inactive licenses and certificates of need for health care providers; amending s. 408.040, F.S.; extending the period for which a certificate of need is valid; amending s. 408.808, F.S.; providing for renewal of inactive license status for statutory rural hospitals under certain circumstances; requiring plan approval and commencement of construction under certain circumstances; requiring certain proof of enforceable capital expenditures under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (2) of section 408.040, Florida Statutes, is amended to read:

408.040 Conditions and monitoring.—

(2)(a) Unless the applicant has commenced construction, if the project provides for construction, unless the applicant has incurred an enforceable capital expenditure commitment for a project, if the project does not provide for construction, or unless subject to paragraph (b), a certificate of need shall terminate 3 years ~~18 months~~ after the date of issuance. The agency shall monitor the progress of the holder of the certificate of need in meeting the timetable for project development specified in the application, and may revoke the certificate of need, if the holder of the certificate is not meeting such timetable and is not making a good-faith effort, as defined by rule, to meet it.

Section 2. Subsection (3) of section 408.808, Florida Statutes, is amended to read:

408.808 License categories.—

(3) INACTIVE LICENSE.—An inactive license may be issued to a health care provider subject to the certificate-of-need provisions in part I of this chapter when the provider is currently licensed, does not have a provisional license, and will be temporarily unable to provide services but is reasonably expected to resume services within 12 months. Such designation may be made for a period not to exceed 12 months but may be renewed by the agency for up to 12 additional months upon demonstration by the licensee of the provider's progress toward reopening. However, if after 20 months in an inactive license status, a statutory rural hospital, as defined in s. 395.602, has demonstrated progress toward reopening, but may not be able to reopen prior to the inactive license expiration date, the inactive designation may be renewed again by the agency for up to 12 additional months. For purposes of such a second renewal, if construction or renovation is required, the licensee must have had plans approved by the agency and construction must have already commenced pursuant to s. 408.032(4); however, if construction

or renovation is not required, the licensee must provide proof of having made an enforceable capital expenditure greater than 25 percent of the total costs associated with the hiring of staff and the purchase of equipment and supplies needed to operate the facility upon opening. A request by a licensee for an inactive license or to extend the previously approved inactive period must be submitted to the agency and must include a written justification for the inactive license with the beginning and ending dates of inactivity specified, a plan for the transfer of any clients to other providers, and the appropriate licensure fees. The agency may not accept a request that is submitted after initiating closure, after any suspension of service, or after notifying clients of closure or suspension of service, unless the action is a result of a disaster at the licensed premises. For the purposes of this section, the term “disaster” means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or manmade, which renders the provider inoperable at the premises. Upon agency approval, the provider shall notify clients of any necessary discharge or transfer as required by authorizing statutes or applicable rules. The beginning of the inactive license period is the date the provider ceases operations. The end of the inactive license period shall become the license expiration date. All licensure fees must be current, must be paid in full, and may be prorated. Reactivation of an inactive license requires the approval of a renewal application, including payment of licensure fees and agency inspections indicating compliance with all requirements of this part, authorizing statutes, and applicable rules.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor May 20, 2009.

Filed in Office Secretary of State May 20, 2009.