

## CHAPTER 2020-60

### Committee Substitute for Senate Bill No. 1344

An act relating to intermediate care facilities; amending s. 400.962, F.S.; requiring certain facilities that have been granted a certificate-of-need exemption to demonstrate and maintain compliance with specified criteria; amending s. 408.036, F.S.; providing an exemption from a certificate-of-need requirement for certain intermediate care facilities; limiting the number of such exemptions the Agency for Health Care Administration may grant; providing that a specific legislative appropriation is not required for the exemption; providing timeframes and a monitoring process for the exemptions granted by the agency; providing for future legislative review and repeal of the exemption; providing an effective date.

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

Section 1. Subsection (6) is added to section 400.962, Florida Statutes, to read:

400.962 License required; license application.—

(6) An applicant that has been granted a certificate-of-need exemption under s. 408.036(3)(o) must also demonstrate and maintain compliance with the following criteria:

(a) The total number of beds per home within the facility may not exceed eight, with each resident having his or her own bedroom and bathroom. Each eight-bed home must be collocated on the same property with two other eight-bed homes and must serve individuals with severe maladaptive behaviors and co-occurring psychiatric diagnoses.

(b) A minimum of 16 beds within the facility must be designated for individuals with severe maladaptive behaviors who have been assessed using the Agency for Persons with Disabilities' Global Behavioral Service Need Matrix with a score of at least Level 4 and up to Level 6, or assessed using the criteria deemed appropriate by the Agency for Health Care Administration regarding the need for a specialized placement in an intermediate care facility for the developmentally disabled. For home and community-based Medicaid waiver clients under chapter 393, the Agency for Persons with Disabilities shall offer choice counseling to clients regarding appropriate residential placement based on the needs of the individual.

(c) The applicant has not had a facility license denied, revoked, or suspended within the 36 months preceding the request for exemption.

(d) The applicant must have at least 10 years of experience serving individuals with severe maladaptive behaviors in the state.

(e) The applicant must implement a state-approved staff training curriculum and monitoring requirements specific to the individuals whose behaviors require higher intensity, frequency, and duration of services.

(f) The applicant must make available medical and nursing services 24 hours per day, 7 days per week.

(g) The applicant must demonstrate a history of using interventions that are least restrictive and that follow a behavioral hierarchy.

(h) The applicant must maintain a policy prohibiting the use of mechanical restraints.

Section 2. Paragraph (o) is added to subsection (3) of section 408.036, Florida Statutes, to read:

408.036 Projects subject to review; exemptions.—

(3) EXEMPTIONS.—Upon request, the following projects are subject to exemption from subsection (1):

(o) For a new intermediate care facility for the developmentally disabled as defined in s. 408.032 which has a total of 24 beds, comprising three eight-bed homes, for use by individuals exhibiting severe maladaptive behaviors and co-occurring psychiatric diagnoses requiring increased levels of behavioral, medical, and therapeutic oversight. The applicant must not have had a license denied, revoked, or suspended within the 36 months preceding the request for exemption and must have at least 10 years of experience serving individuals with severe maladaptive behaviors in this state. The agency may grant no more than three exemptions under this paragraph.

1. The exemption under this paragraph does not require a specific legislative appropriation.

2. An exemption under this paragraph shall terminate 18 months after the date of issuance unless the exemption holder has commenced construction. The agency shall monitor the progress of the holder of the certificate of exemption in meeting the timetable for project development specified in the application for exemption. The agency shall extend the time period for a project if the exemption holder demonstrates to the satisfaction of the agency that good-faith commencement of the project is being delayed by litigation or by governmental action or inaction with respect to regulations or permitting precluding commencement of the project.

3. This paragraph and subsection (6) of s. 400.962 are repealed July 1, 2022, unless reviewed and saved from repeal by the Legislature.

Section 3. This act shall take effect July 1, 2020.

Approved by the Governor June 20, 2020.

Filed in Office Secretary of State June 20, 2020.