



---

# Health Innovation Subcommittee

Wednesday, January 15, 2014  
8:00 AM - 10:00 AM  
306 HOB

Will Weatherford  
Speaker

Jason T. Brodeur  
Chair

**Committee Meeting Notice**  
**HOUSE OF REPRESENTATIVES**

**Health Innovation Subcommittee**

**Start Date and Time:** Wednesday, January 15, 2014 08:00 am  
**End Date and Time:** Wednesday, January 15, 2014 10:00 am  
**Location:** 306 HOB  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 287 Certificates of Need by Articles

Presentations by the Department of Health on Florida's Trauma System

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Tuesday, January 14, 2014.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, January 14, 2014.

**NOTICE FINALIZED on 01/08/2014 14:54 by Iseminger.Bobbye**





# FLORIDA'S TRAUMA SYSTEM

# TRAUMA SYSTEM

- **Inclusive, sustainable & integrated**
- **Provides safe, effective & efficient care to injured people & their families in Florida**
- **Goal: save lives & restore function**



# HISTORY

- **1982** Florida Legislature passed first trauma legislation
- **1987** Health & Rehabilitative Services required to develop statewide trauma system
- **1990** Roy E. Campbell Trauma Care Act of 1990
- **1999** Inclusive System
- **2000** \$4.8 million appropriated to 20 state-approved trauma centers (lump sum)

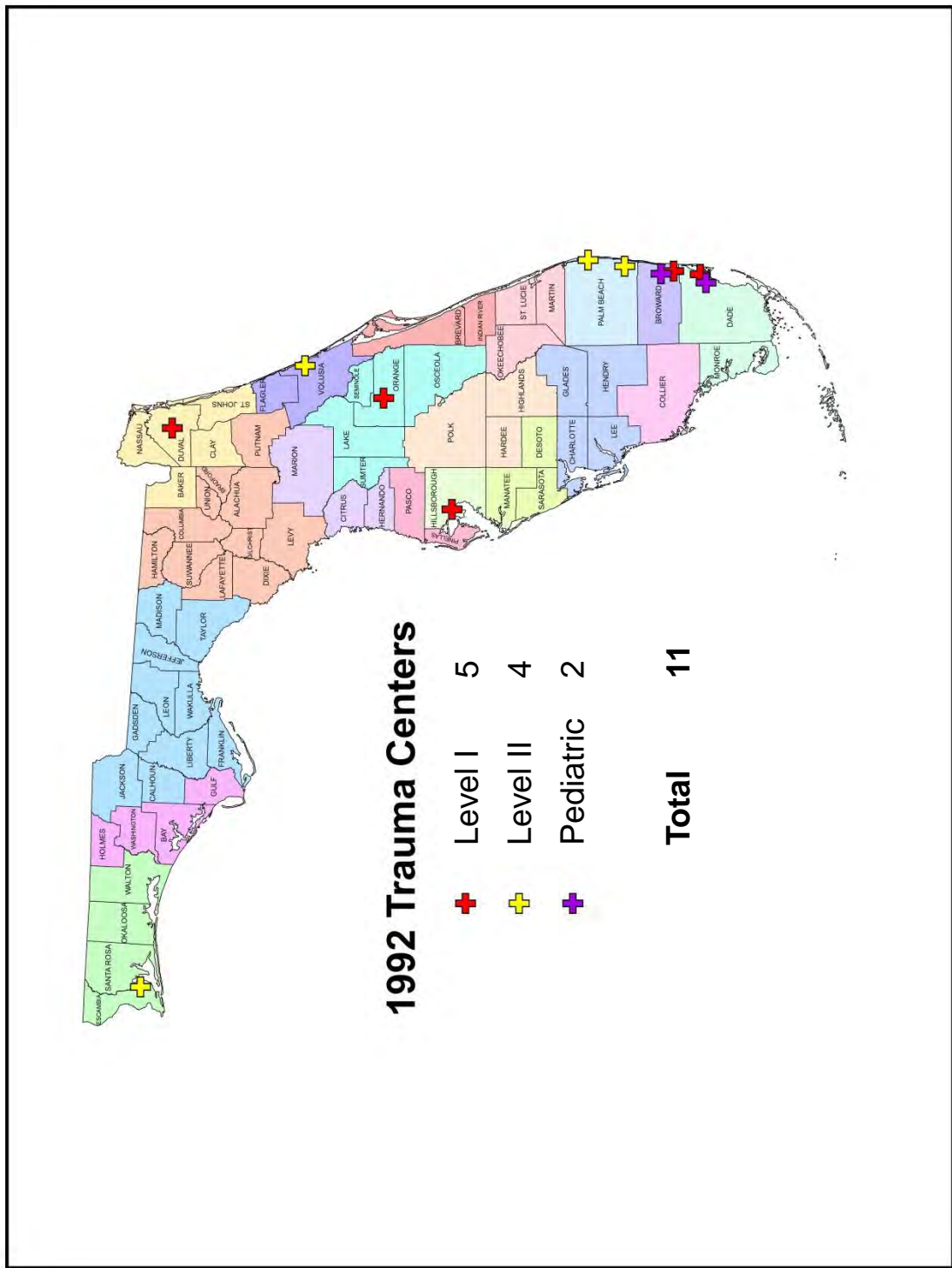


# HISTORY

- **2004 SB 1762 reforming the trauma system & requiring assessment of trauma system**
- **2005 Dedicated funding to verified trauma centers from red-light running fines & other traffic penalties**
- **2011 Trauma center apportionment rule challenged**
- **2012 Trauma center apportionment rule invalidated on appeal**
- **2013 American College of Surgeons Committee on Trauma System Consultation team visit**

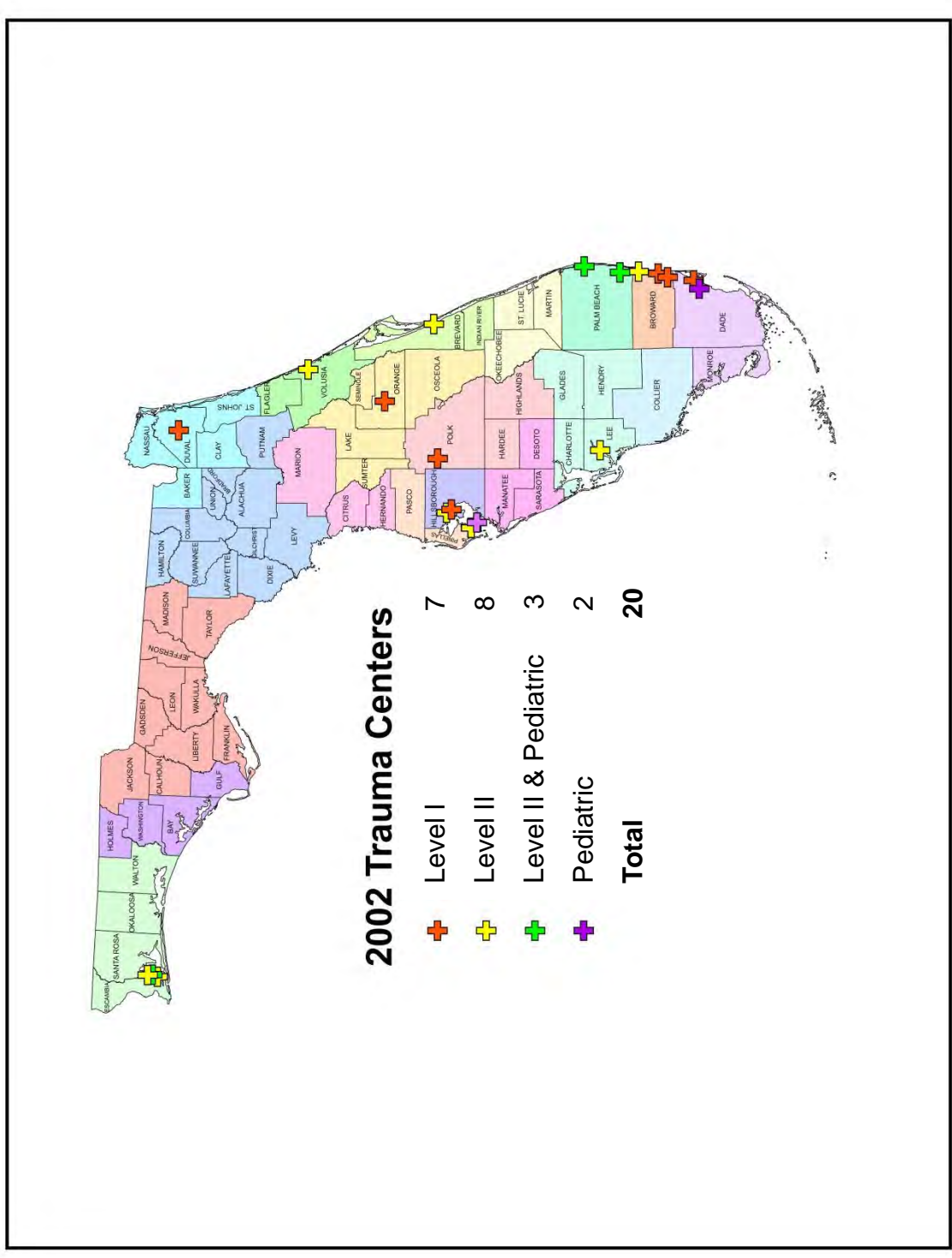


# TRAUMA CENTERS 1992

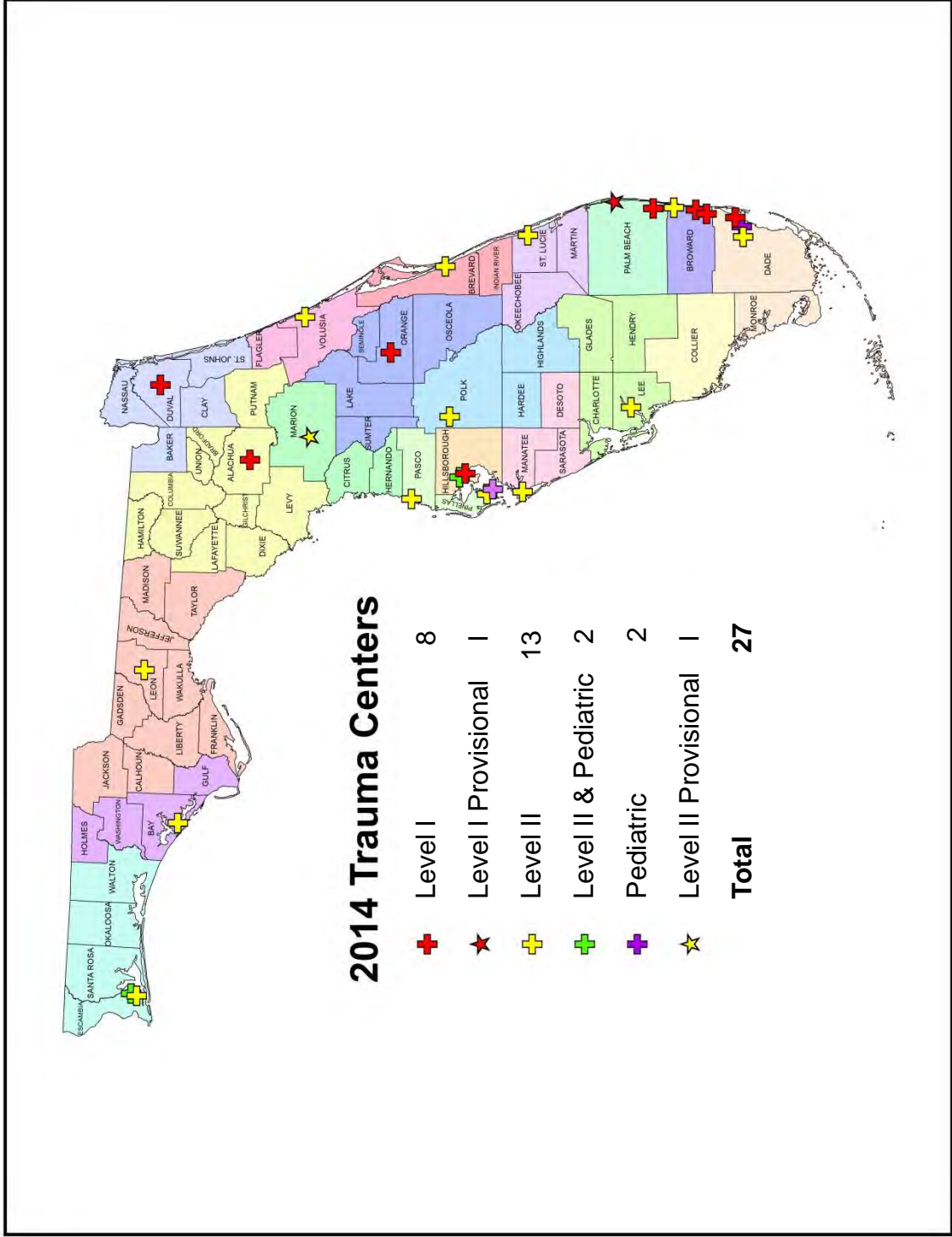




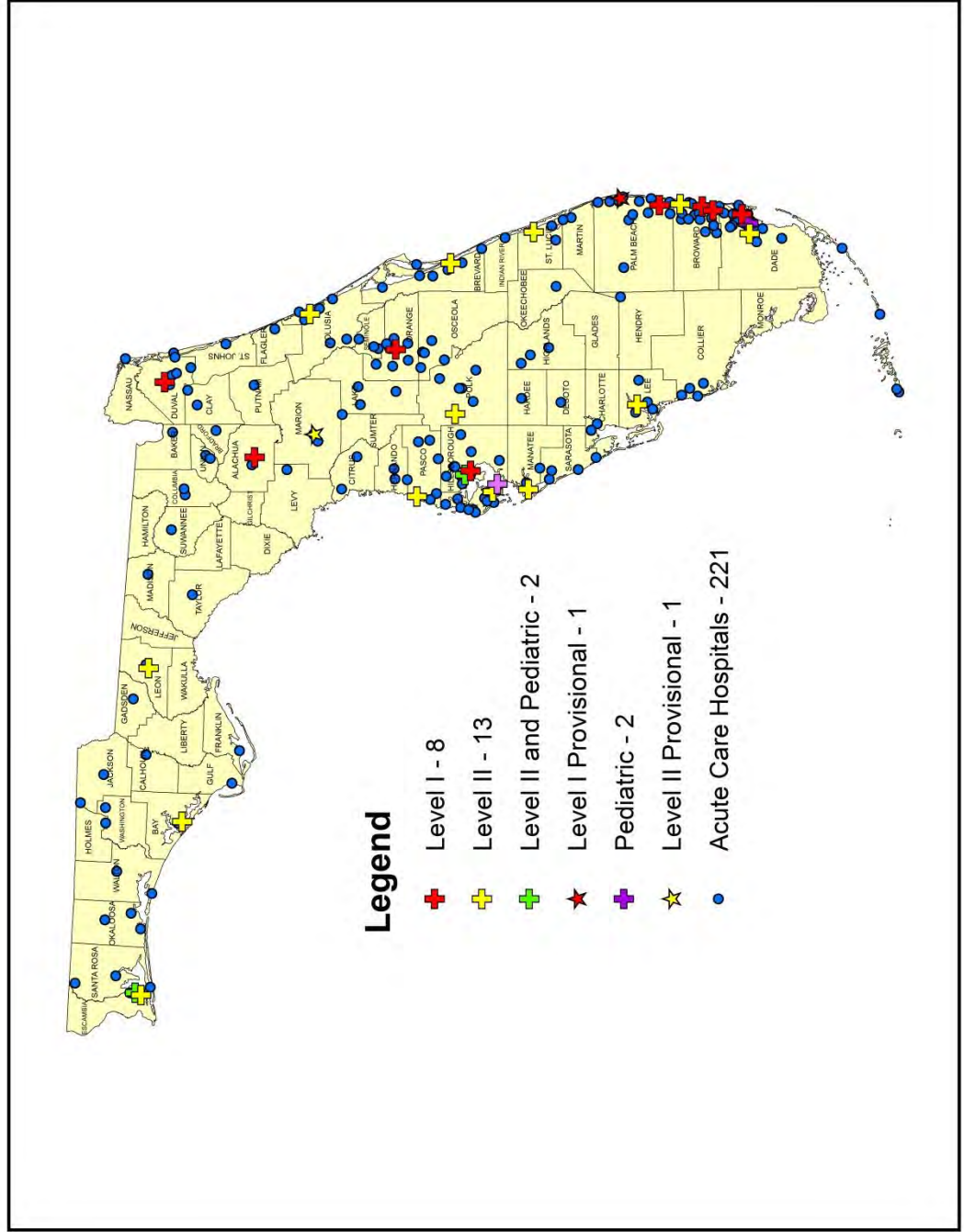
# TRAUMA CENTERS 2002



# TRAUMA CENTERS 2014



# TRAUMA CENTERS & ACUTE CARE HOSPITALS



# FLORIDA'S POPULATION 1990-2010



- 1990: 12,937,926
- 2000: 15,982,378
- 2010: 18,801,310
- 2013: 19,552,860

**1.7 million visitors in Florida  
on any given day**



# FLORIDA'S POPULATION 65 & OLDER



- 1990 2,369,431
- 2000 2,807,597
- 2010 3,259,602

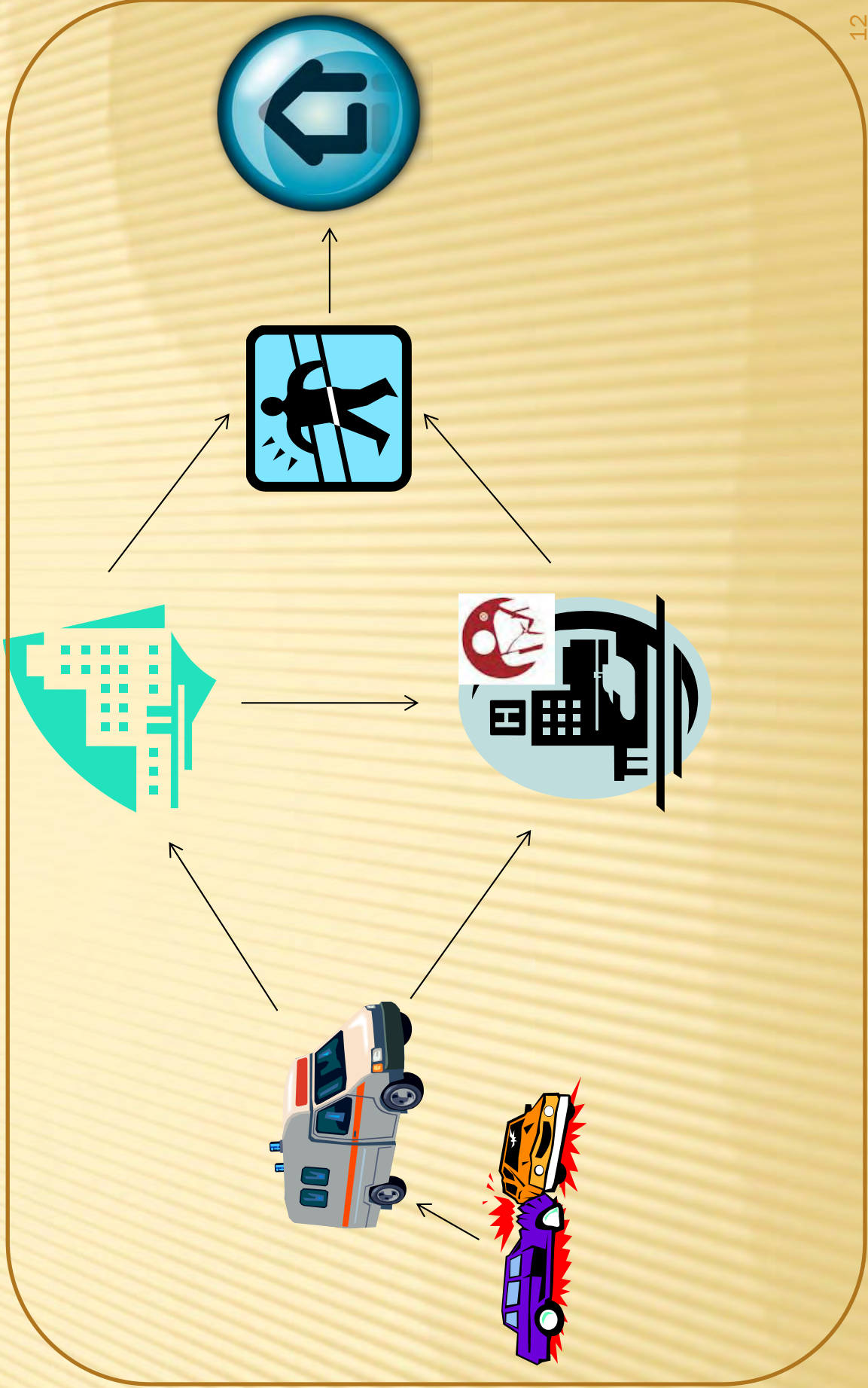


# BUREAU OF EMERGENCY MEDICAL OPERATIONS

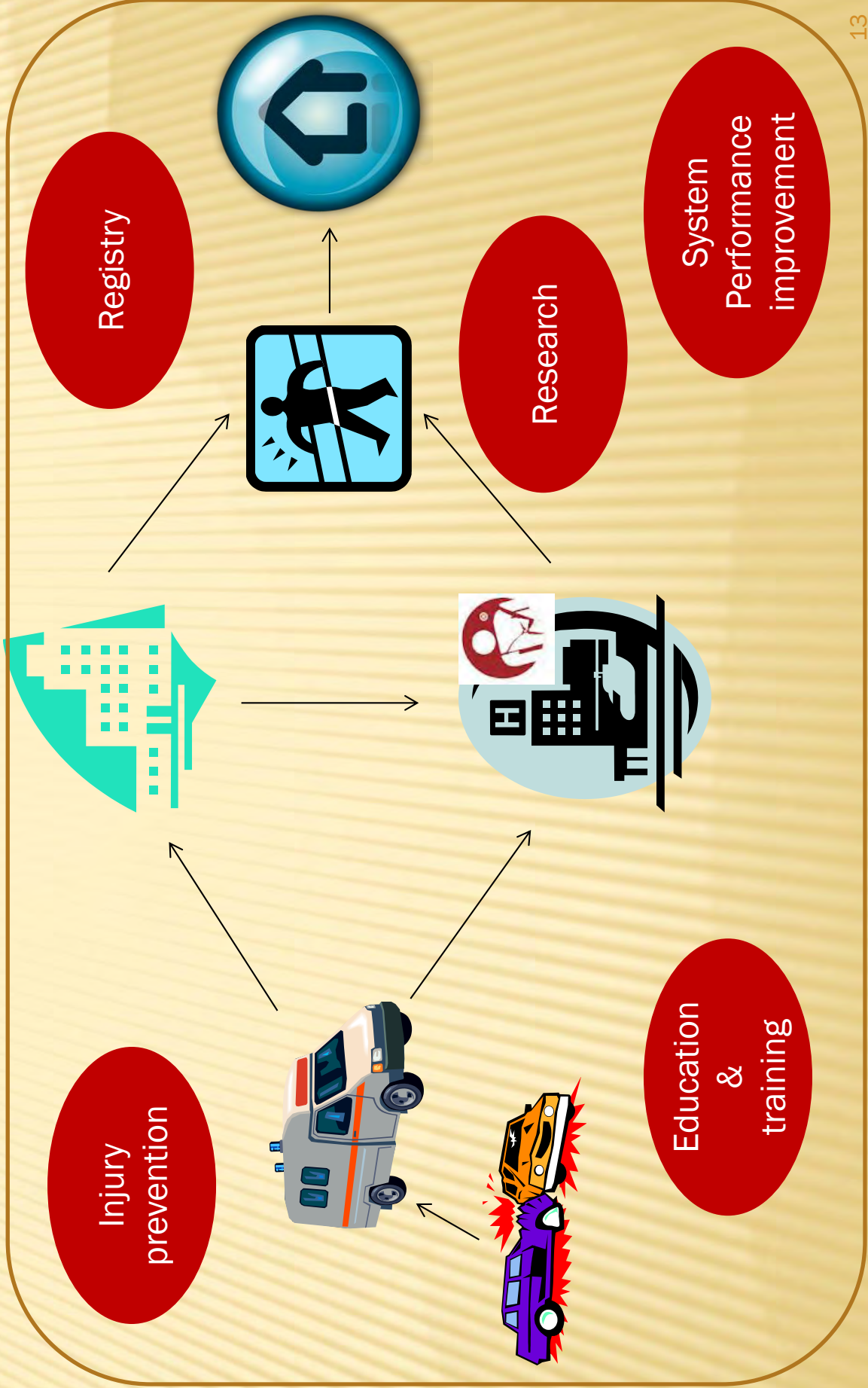
- Trauma
- Emergency Medical Services
- Injury Prevention
- Brain & Spinal Cord Injury Program



# TRAUMA SYSTEM



# TRAUMA SYSTEM





# AMERICAN COLLEGE OF SURGEONS COMMITTEE ON TRAUMA

- Defines standards for trauma & resources
- Trauma center & system verification
- Population-based analysis



# AMERICAN COLLEGE OF SURGEONS COMMITTEE ON TRAUMA



AMERICAN COLLEGE OF SURGEONS COMMITTEE ON TRAUMA  
Trauma Systems Evaluation and Planning Committee

## Trauma System Consultation Report

State of Florida

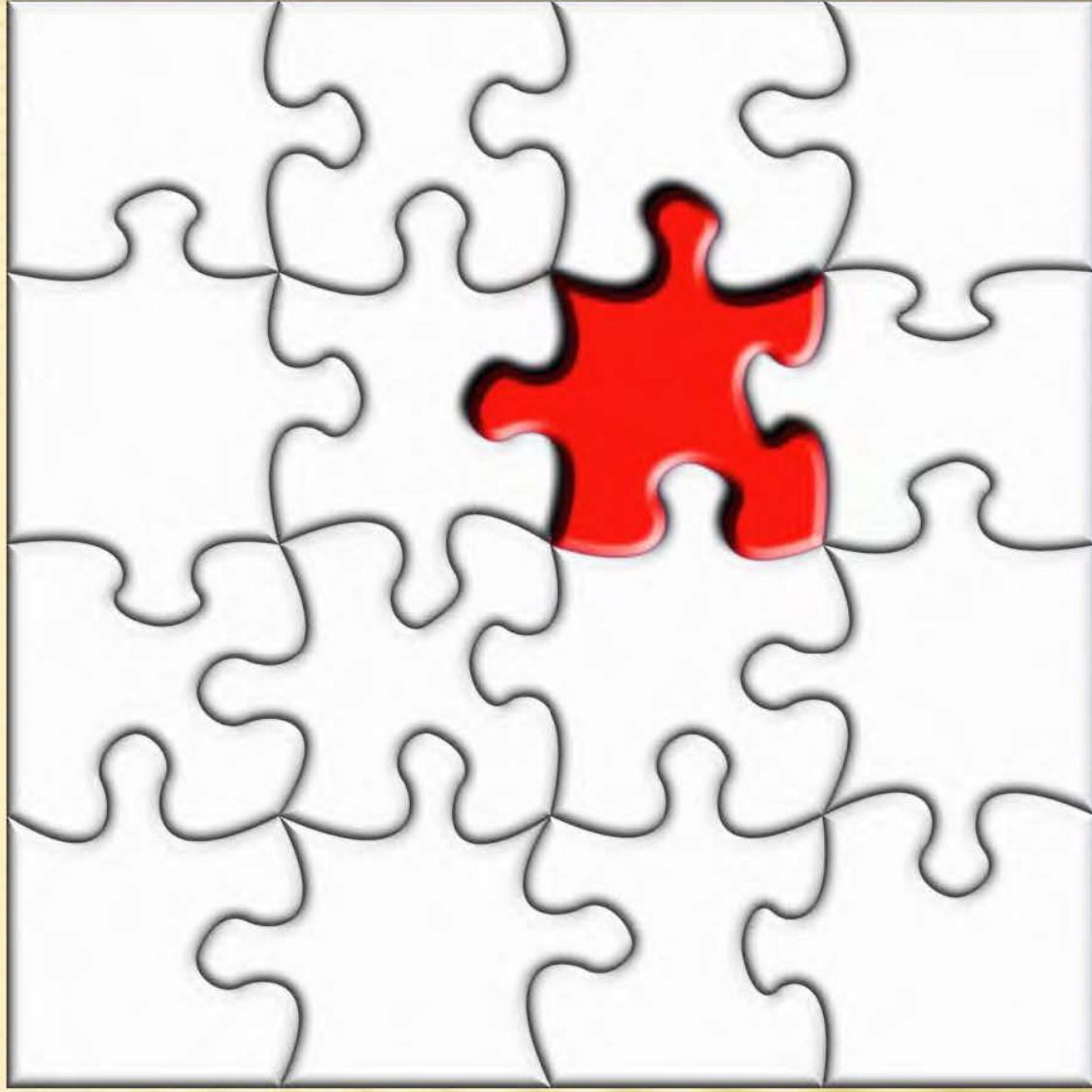
Tallahassee, FL  
February 2-5, 2013



AMERICAN COLLEGE OF SURGEONS  
Advancing Quality  
Elevating Standards. Better Outcomes.



# ONE PIECE OF THE PUZZLE



# COMPLETED IMPROVEMENTS

- Leadership
- Data registry
- Emergency Medical Services/National Highway Traffic Safety Administration Reassessment



# ONGOING IMPROVEMENTS

- **Strategic planning**
- **Performance improvement**
- **Integration of micro-systems**

# REFERRED OPPORTUNITIES

- Statutory authority
- Financing

# TRAUMA CENTER FUNDING

## 2006-2012

Source: Court Fines & Red Light Cameras

2006	\$ 4.8 million
2007	\$ 6.2 million
2008	\$ 5.3 million
2009	\$ 4.2 million
2010	\$ 4.2 million
2011	\$ 5.1 million
2012	\$12.6 million



# SUMMARY

- **Florida has trauma heritage through legislature**
- **DOH is inspiring quality through data-driven trauma system improvement**









**Florida Trauma Centers**  
**As of December 1, 2013**

**Level I**

Broward Health Medical Center  
Delray Medical Center  
Jackson Memorial Hospital/Ryder Trauma Center  
Memorial Regional Hospital  
Orlando Regional Medical Center  
Shands Jacksonville TraumaOne  
Tampa General Hospital  
UF Health Shands Hospital

**Level II**

Baptist Hospital Pensacola  
Bay Medical Center  
Bayfront Medical Center  
Blake Medical Center  
Broward Health North  
Halifax Medical Center  
Holmes Regional Medical Center  
Kendall Regional Medical Center  
Lakeland Regional Medical Center  
Lawnwood Regional Medical Center and Hearth Institute  
Lee Memorial Hospital  
Regional Medical Center Bayonet Point  
Tallahassee Memorial Hospital

**Level II and Pediatric**

Sacred Heart Hospital  
St. Joseph's Hospital  
St. Mary's Medical Center

**Pediatric**

Miami Children's Hospital  
All Children's Hospital and Bayfront Medical Center are joint Pediatric

**Provisional Trauma Centers**

**Level I**

St. Mary's Medical Center

**Level II**

Ocala Regional Medical Center



<b>ACTIVE TRAUMA LITIGATION</b>					
<b>Case No.</b>	<b>Caption</b>	<b>Counsel for Appellant/Petitioner</b>	<b>Counsel for Appellee/Respondent</b>	<b>Counsel for Intervenor</b>	<b>Status</b>
1st DCA 1D12-2998	Shands Jacksonville Medical Center, Inc., Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and Orange Park Medical Center, Inc.	Seann M. Frazier, Parker, Hudson, Rainer & Dobbs, LLP	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A. Raul Cantero, White & Case, LLP, co- counsel	Response to Joint Motion to Enforce Mandate due January 17, 2014
1st DCA 1D12-3451	Florida Health Sciences Center, Inc., d/b/a Tampa General Hospital, and Bayfront Medical Center, Appellants/Petitioners v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point, and d/b/a Blake Medical Center, Appellees/Intervenors.	Jeffrey Frehn, Radey, Thomas, Yon & Clark, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.  Raul Cantero, White & Case, LLP, co- counsel	Response to Motion to Enforce Mandate due January 17, 2014
1st DCA 1D12-3543	St. Joseph's Hospital, Inc., d/b/a St. Joseph's Hospital, Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point, and d/b/a Blake Medical Center, Appellees/Intervenors.	Karen Putnal and Robert Weiss, Moyle Law Firm, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.  Raul Cantero, White & Case, LLP, co- counsel.	Response to Joint Motion to Enforce Mandate due January 17, 2014

<b>ACTIVE TRAUMA LITIGATION</b>					
<b>Case No.</b>	<b>Caption</b>	<b>Counsel for Appellant/Petitioner</b>	<b>Counsel for Appellee/Respondent</b>	<b>Counsel for Intervenor</b>	<b>Status</b>
1st DCA 1D13-1029	Shands Teaching Hospital, d/b/a Shands at UF, Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and Marion Community Hospital, Inc., d/b/a Ocala Regional Medical Center, Appellee/Intervenor.	Seann M. Frazier, Parker, Hudson, Rainer & Dobbs, LLP	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.  Raul Cantero, White & Case, LLP, co-counsel	Response to Motion to Enforce Mandate due January 17, 2014
DOAH 14-000103  DOH 2011-0110	Shands Jacksonville Medical Center, Inc., Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and Orange Park Med. Ctr., Inc.	Seann M. Frazier, Parker, Hudson, Rainer & Dobbs, LLP	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH
DOAH 14-000104  DOH 2011-0111	St. Joseph's Hospital, Inc., d/b/a St. Joseph's Hospital, Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point, and d/b/a Blake Medical Center, Appellees/Intervenors.	Karen Putnal and Robert Weiss, Moyle Law Firm, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH

<b>ACTIVE TRAUMA LITIGATION</b>					
<b>Case No.</b>	<b>Caption</b>	<b>Counsel for Appellant/Petitioner</b>	<b>Counsel for Appellee/Respondent</b>	<b>Counsel for Intervenor</b>	<b>Status</b>
DOAH 14-000105  DOH 2011-0112	Florida Health Sciences Center, Inc., d/b/a Tampa General Hospital, Appellants/Petitioners v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point, and d/b/a Blake Medical Center, Appellees/Intervenors.	Jeffrey Frehn, Radey, Thomas, Yon & Clark, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH
DOAH 14-000106  DOH Case 2011-0113	Florida Health Sciences Center, Inc., d/b/a Tampa General Hospital, Appellants/Petitioners v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point, and d/b/a Blake Medical Center, Appellees/Intervenors.	Jeffrey Frehn, Radey, Thomas, Yon & Clark, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Sent to DOAH on January 8, 2014

<b>ACTIVE TRAUMA LITIGATION</b>					
<b>Case No.</b>	<b>Caption</b>	<b>Counsel for Appellant/Petitioner</b>	<b>Counsel for Appellee/Respondent</b>	<b>Counsel for Intervenor</b>	<b>Status</b>
DOAH 14-000107  DOH 2011-0114	Bayfront Medical Center, Inc., Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point, and d/b/a Blake Medical Center, Appellees/Intervenors.	Jeffrey Frehn, Radey, Thomas, Yon & Clark, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH
DOAH 14-000108  DOH 2011-0115	Bayfront Medical Center, Inc., Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point, and d/b/a Blake Medical Center, Appellees/Intervenors.	Jeffrey Frehn, Radey, Thomas, Yon & Clark, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH
DOAH 13-004758  DOH 2012-0166	Shands Teaching Hospital, d/b/a Shands at UF, Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and Marion Community Hospital, Inc., d/b/a Ocala Regional Medical Center, Appellee/Intervenor.	Seann M. Frazier, Parker, Hudson, Rainer & Dobbs, LLP	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH





<b>ACTIVE TRAUMA LITIGATION</b>					
<b>Case No.</b>	<b>Caption</b>	<b>Counsel for Appellant/Petitioner</b>	<b>Counsel for Appellee/Respondent</b>	<b>Counsel for Intervenor</b>	<b>Status</b>
DOAH 13-002010	Orange Park Medical Center, Inc., Petitioner, v. Department of Health, Respondent.	Steve Ecenia, Richard Ellis, and Davis Prescott, Rutledge, Ecenia & Purnell, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	None.	In abeyance. Status update due to ALJ by May 15, 2014
DOH 2013-0005	Osceola Regional Hospital, Inc., v. Department of Health, Respondent	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	None.	In abeyance
DOAH 14-000110  DOH 2013-0024	St. Joseph's Hospital, Inc., d/b/a St. Joseph's Hospital, v. Department of Health, Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point, Intervenor.	Karen Putnal and Robert Weiss, Moyle Law Firm, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH
DOAH 14-000109  DOH 2013-0025	Florida Health Sciences Center, Inc., d/b/a Tampa General Hospital, Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point and d/b/a Blake Medical Center, Appellees/Intervenors.	Jeffrey Frehn, Radey, Thomas, Yon & Clark, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH

<b>ACTIVE TRAUMA LITIGATION</b>					
<b>Case No.</b>	<b>Caption</b>	<b>Counsel for Appellant/Petitioner</b>	<b>Counsel for Appellee/Respondent</b>	<b>Counsel for Intervenor</b>	<b>Status</b>
DOAH 14-000112  DOH 2013-0026	Bayfront Medical Center, Inc., Appellant/Petitioner, v. Dept. of Health, Appellee/Respondent, and HCA Health Services of Florida, d/b/a Regional Medical Center Bayonet Point and d/b/a Blake Medical Center, Appellees/Intervenors.	Jeffrey Frehn, Radey, Thomas, Yon & Clark, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Pending at DOAH
DOH 2013-0237	Jackson South Community Hospital, v. Department of Health	Eugene Shy, Valda Clark Christian, and, Christopher C. Kokoruda, Assistant County Attorneys, Miami-Dade County	Caryl S. Kilinski, Chief Legal Counsel, Florida Department of Health		Hearing scheduled for Feb. 13, 2014
DOH 2013-0238	Jackson North Community Hospital, v. Department of Health	Eugene Shy, Valda Clark Christian, and, Christopher C. Kokoruda, Assistant County Attorneys, Miami-Dade County	Caryl S. Kilinski, Chief Legal Counsel, Florida Department of Health		Hearing scheduled for Feb. 13, 2014
DOH 2013-0243	Osceola Regional Hospital, Inc., v. Department of Health, Respondent	Steve Ecenia, Richard Ellis, and David Prescott, Rutledge, Ecenia & Purnell, P.A.	Jennifer A. Tschetter, General Counsel, Florida Department of Health	None.	In abeyance



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 287 Certificates of Need  
**SPONSOR(S):** Artiles  
**TIED BILLS:** IDEN./SIM. BILLS: SB 268

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee		Guzzo 	Shaw 
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

A certificate of need (CON) is a written statement issued by the Agency for Health Care Administration (AHCA) evidencing community need for a new, converted, expanded or otherwise significantly modified health care facility, health service, or hospice. Prior to constructing a new nursing home or adding additional beds, the facility must obtain approval from AHCA through the CON review and approval process.

Since 2001, a moratorium on new CONs for nursing homes has prevented AHCA from approving additional community nursing home beds. The moratorium will expire on October 1, 2016, or upon the date that Medicaid managed care is implemented statewide, whichever is earlier. Full implementation of the statewide Medicaid managed care program is statutorily required to be completed by October 1, 2014.

The bill repeals the moratorium effective July 1, 2014. As a result, AHCA will be authorized to approve new community nursing home beds under the regulations of the CON process. Additionally, the bill will allow for increased flexibility in the construction of new nursing homes and the expansion of existing nursing homes.

Specifically, the bill amends ss. 408.034 through 408.036, F.S., to:

- Decrease the required sub-district average occupancy rate that AHCA uses in its nursing home bed-need methodology from 94 to 92 percent.
- Authorize an applicant to combine the published bed need of geographically contiguous sub-districts within a district for a proposed community nursing home;
  - If only two sub-districts are aggregated, the nursing home must be located in the sub-district with the greater need;
  - If more than two sub-districts are aggregated, the nursing home must be located in a place that provides reasonable geographic access for residents in each aggregated sub-district.
- Provide expedited review of a CON application for the replacement of a nursing home within a 30-mile radius of the existing nursing home.
- Provide expedited review of a CON application for the replacement of a nursing home within the same district if the proposed project site is outside a 30-mile radius of the replaced nursing home but within the same sub-district or a geographically contiguous sub-district. If the proposed project site is in the geographically contiguous sub-district, the prior six-month occupancy rate for licensed community nursing homes for that sub-district must be at least 85 percent.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### **Certificates of Need**

A certificate of need (CON) is a written statement issued by the Agency for Health Care Administration (AHCA) evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility, health service, or hospice.<sup>1</sup> Under this regulatory program, AHCA must provide approval through the CON review and approval process prior to a provider establishing a new nursing home or adding nursing home beds.

Florida's CON program has been in operation since 1973, and has undergone several changes over the years. From 1974 through 1986, the specifics of the program were largely dictated by the National Health Planning and Resources Development Act, which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria. Each state was required to have a CON program in compliance with those standards as a condition for obtaining federal funds for health programs. The federal health planning legislation was repealed in 1986.

A moratorium on the approval of additional nursing home beds has been in effect since 2001.<sup>2</sup> In 2006, the Florida Legislature extended the moratorium through July 1, 2011.<sup>3</sup> The current moratorium, which was last extended in 2011,<sup>4</sup> is scheduled to expire on October 1, 2016, or upon the date that Medicaid managed care is implemented statewide, whichever is earlier. Full implementation of the statewide Medicaid managed care program is statutorily required to be completed by October 1, 2014.<sup>5</sup>

##### Determination of Need

Granting a CON is predicated on a determination of need. The CON formula for determining need for community nursing home beds provides an allocation of projected nursing home beds which will be needed in a specific AHCA CON sub-district within a three-year time horizon. There are 44 sub-districts within AHCA's 11 service districts.<sup>6</sup> However, bed need projections have not been calculated since the moratorium on additional community nursing home beds went into effect on July 1, 2001.<sup>7</sup>

The formula considers the projected increase in the district population age 65 to 74 and age 75 and over, with the age group 75 and older given six times more weight in projecting the population increase.<sup>8</sup> The projected total bed need of a district is then allocated to its sub-districts consistent with the current sub-district distribution.<sup>9</sup> The result for a given sub-district is adjusted to reflect the current sub-district occupancy of licensed beds. A given sub-district is expected to have a minimum occupancy rate of 94 percent.<sup>10</sup> Rules governing CON provide that if current occupancy of licensed

---

<sup>1</sup> S. 408.032(3), F.S.

<sup>2</sup> Ch. 2001-45, L.O.F.

<sup>3</sup> Ch. 2006-161, L.O.F.

<sup>4</sup> Ch. 2011-135, L.O.F.

<sup>5</sup> SS. 409.971 and 409.978, F.S.

<sup>6</sup> Nursing home sub-districts are set forth in Rule 59C-2.200, F.A.C., and generally consist of 1 to 2 counties. Sub-district 3/2 consists of 7 small rural counties, which is the highest total number of counties in a sub-district. Duval county is divided between several sub-districts of district 4.

<sup>7</sup> Agency for Health Care Administration, Bill Analysis, House Bill 287, dated December 20, 2013, on file with Health & Human Services Innovation Subcommittee staff.

<sup>8</sup> Rule 59C-1.036, F.A.C.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

nursing home beds is less than 85 percent, the net need in a sub-district is zero regardless of whether the formula indicates otherwise.<sup>11</sup>

### Projects Subject to Review and Exemptions

There are three levels of CON review, including, full, expedited, and exempt.<sup>12</sup>

#### *Projects Subject to Full Review*

The addition of beds in community nursing homes or the new construction or establishment of community nursing home projects are subject to full CON review by AHCA.<sup>13</sup> However, pursuant to s. 408.0435, F.S., a CON for additional community nursing home beds may not be approved by AHCA until the moratorium expires.

#### *Projects Subject to Expedited Review*

Pursuant to s. 408.036(2), certain projects are subject to expedited review. These projects include:

- Replacement of a nursing home within the same district, if the proposed project site is located within a geographic area that contains at least 65 percent of the facility's current residents and is within a 30-mile radius of the replaced nursing home;
- Relocation of a portion of a nursing home's licensed beds to a facility within the same district, if the relocation is within a 30-mile radius of the existing facility and the total number of nursing home beds in the district does not increase; and

Applications for new construction of a community nursing home in a retirement community are subject to expedited review, and are exempt from the moratorium.<sup>14</sup> This provision went into effect on July 1, 2013,<sup>15</sup> and to date, there have been no applications for such projects filed with AHCA.<sup>16</sup>

An applicant will be deemed eligible for expedited review for construction of a community nursing home in a retirement community if all of the following criteria are met:

- The residential use area of the retirement community is deed-restricted as housing for older persons;
- The retirement community is located in a county in which 25 percent or more of its population is age 65 and older;
- The retirement community is located in a county that has a rate of no more than 16.1 beds per 1,000 persons age 65 or older;
- The retirement community has a population of at least 8,000 residents within the county; and
- The number of proposed community nursing home beds in an application does not exceed the projected bed need after applying the rate of 16.1 beds per 1,000 persons age 65 and older.

#### *Exemptions from CON Review*

Pursuant to s. 408.036(3), F.S., certain projects are exempt from nursing home CON review. These projects include:

---

<sup>11</sup> Id.

<sup>12</sup> S. 408.036, F.S.

<sup>13</sup> S. 408.036(1), F.S.

<sup>14</sup> S. 408.036(2), F.S.

<sup>15</sup> Ch. 2013-153, L.O.F.

<sup>16</sup> Agency for Health Care Administration, Bill Analysis, House Bill 287, dated December 20, 2013, on file with Health & Human Services Innovation Subcommittee staff.

- The creation of a single nursing home within a district by combining licensed beds from two or more licensed nursing homes within a district, regardless of sub-district boundaries; if
  - Fifty-percent of the beds in the created nursing home are transferred from the only nursing home in a county and its utilization data demonstrates that it had an occupancy rate of less than 75 percent for the 12-month period ending 90 days before the request for the exemption;
- The addition of nursing home beds, not to exceed 10 total beds, or 10 percent of the number of licensed beds in the facility being expanded, whichever is greater;
- The replacement of a licensed nursing home on the same site, or within three miles of the same site; if
  - The number of licensed beds does not increase;
- The consolidation or combination of licensed nursing homes or transfer beds between licensed nursing homes within the same planning sub-district, by providers that operate multiple nursing homes within that planning sub-district; if
  - There is no increase in the planning sub-district total number of nursing home beds and the site of the relocation is not more than 30 miles from the original location.

### *Exceptions to the Moratorium*

Pursuant to s. 408.0435, F.S., the moratorium does not apply to certain projects. These projects include:

- Adding sheltered nursing home beds<sup>17</sup> in a continuing care retirement community;
- Adding nursing home beds in a county that has no community nursing home beds and the lack of beds is the result of the closure of a nursing home that was licensed on July 1, 2001;<sup>18</sup>
- Adding the greater of no more than 10 total beds or 10 percent of the licensed nursing home beds of a facility located in a county having up to 50,000 residents; if
  - The nursing home has not had any class I or class II deficiencies within the 30 months preceding the request for addition; and
  - The prior 12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 percent and the facility has never had a class I or class II deficiency; or
  - For a facility that has been licensed for less than 24 months, the prior 6-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 percent and the facility has never had a class I or class II deficiency;
- Adding the greater of no more than 10 total beds or 10 percent of the number of licensed nursing home beds; if
  - The facility has not had any class I or class II deficiencies within the 30 months preceding the request for addition;
  - The prior 12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 96 percent;
  - The prior 12-month occupancy rate for the nursing home beds in the sub-district is 94 percent or greater; and
  - Any beds authorized for the facility under this exception in a prior request have been licensed and operational for at least 12 months.<sup>19</sup>

<sup>17</sup> A "sheltered nursing home bed" is defined by s. 651.118(3), F.S., as Nursing home beds located within a continuing care facility for which a certificate of need is issued pursuant to subsection (2) shall be known as sheltered nursing home beds.

<sup>18</sup> The request to add beds under this exception to the moratorium is subject to the full competitive review process for CONS.

<sup>19</sup> The request to add beds under the exception to the moratorium is subject to the procedures related to an exemption to the CON requirements.

## Effect of Proposed Changes

The bill amends s. 408.034(5), F.S., to revise the nursing home bed-need methodology threshold from 94 percent to 92 percent. Statewide nursing home bed occupancy rates have remained around 88.5 percent since FY 2004-2005.<sup>20</sup> According to AHCA, reducing the occupancy rate standard from 94 percent to 92 percent may have a marginal effect on total bed need projection in some sub-districts, but it would have no impact on the increase in Medicaid nursing home patients beyond normal anticipated growth.<sup>21</sup>

The bill creates s. 408.034(6), F.S., to allow applicants to combine need numbers when need is shown for geographically contiguous sub-districts to establish a new community nursing home in one of these sub-districts. If need is aggregated from two sub-districts, the proposed nursing home site must be located in the sub-district with the greater need.

The bill amends s. 408.036(2)(b), F.S., to allow for the replacement of a nursing home if the proposed site is within a 30-mile radius of the replaced nursing home. As a result, providers will be able to move a nursing home from one district to another as long as it is within a 30-mile radius.

The bill amends s. 408.036(2)(c), F.S., to allow for the replacement of a nursing home within the same district, if the proposed project site is outside a 30-mile radius of the replaced nursing home but within the same sub-district or a geographically contiguous sub-district. If the proposed project site is in the geographically contiguous sub-district, the prior 6-month occupancy rate for licensed community nursing homes for that sub-district must be at least 85 percent.

The bill amends s. 408.036(3), F.S., to revise current exemptions to certain CON review projects. Specifically, the bill:

- Repeals an obsolete provision relating to the transfer of beds to establish a new facility. This provision was set to be repealed upon the expiration of the moratorium, which is consistent with the bill's provision to repeal s. 408.0435, F.S.;
- Ensures that the provision being repealed in s. 408.0435(5)(b), F.S., is retained in s. 408.036(3)(j), F.S., which requires an average occupancy rate of 94 percent to be able to apply for additional nursing home beds;
- Expands the distance a replacement facility may be from the original site from three miles to five miles;
- Authorizes exemptions for the consolidation or combination of licensed nursing homes, or transfer of beds between licensed nursing homes within the same district, by nursing homes with any shared controlled interest within the district; if
  - There is no increase in the district's total number of nursing home beds; and
  - The site of the relocation is not more than 30 miles from the original location.

Finally, the bill repeals the moratorium on CONs for new community nursing home beds.

### B. SECTION DIRECTORY:

- Section 1:** Amends s. 408.034, F.S., relating to duties and responsibilities of the Agency for Health Care Administration; rules.
- Section 2:** Amends s. 408.036, F.S., relating to projects subject to expedited review; exemptions.
- Section 3:** Repeals s. 408.0435, F.S., relating to the moratorium on nursing home certificates of need.

<sup>20</sup> Agency for Health Care Administration, Bill Analysis, House Bill 287, dated December 20, 2013, on file with Health & Human Services Innovation Subcommittee staff.

<sup>21</sup> *Id.*



**Section 4:** Provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill repeals the moratorium that prohibits the Agency for Health Care Administration (AHCA) from issuing certificates of need (CONs) for new community nursing home beds. Repeal of the moratorium will allow AHCA to grant new CONs for the construction of new community nursing homes and the addition of community nursing home beds to existing nursing homes when sufficient need is determined to exist.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

AHCA has sufficient rule-making authority to implement the provisions of the bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled  
2 An act relating to certificates of need; amending s.  
3 408.034, F.S.; decreasing the subdistrict average  
4 occupancy rate that the Agency for Health Care  
5 Administration is required to maintain as a goal of  
6 its nursing-home-bed-need methodology; conforming a  
7 provision to changes made by the act; authorizing an  
8 applicant to aggregate the need of geographically  
9 contiguous subdistricts within a district for a  
10 proposed community nursing home under certain  
11 circumstances; requiring the proposed nursing home  
12 site to be located in the subdistrict with the greater  
13 need under certain circumstances; amending s. 408.036,  
14 F.S.; providing that, under certain circumstances,  
15 replacement of a nursing home is a health-care-related  
16 project subject to expedited review; conforming a  
17 cross-reference; revising the requirements for  
18 projects that are exempted from applying for a  
19 certificate of need; repealing s. 408.0435, F.S.,  
20 relating to the moratorium on the approval of  
21 certificates of need for additional community nursing  
22 home beds; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsection (5) of section 408.034, Florida

27 Statutes, is amended, present subsection (6) of that section is  
 28 redesignated as subsection (7), and a new subsection (6) is  
 29 added to that section, to read:

30 408.034 Duties and responsibilities of agency; rules.—

31 (5) The agency shall establish by rule a nursing-home-bed-  
 32 need methodology that has a goal of maintaining a subdistrict  
 33 average occupancy rate of 92 ~~94~~ percent ~~and that reduces the~~  
 34 ~~community nursing home bed need for the areas of the state where~~  
 35 ~~the agency establishes pilot community diversion programs~~  
 36 ~~through the Title XIX aging waiver program.~~

37 (6) If nursing home bed need is determined to exist in  
 38 geographically contiguous subdistricts within a district, an  
 39 applicant may aggregate the subdistricts' need for a new  
 40 community nursing home in one of the subdistricts. If need is  
 41 aggregated from two subdistricts, the proposed nursing home site  
 42 must be located in the subdistrict with the greater need as  
 43 published by the agency in the Florida Administrative Register.  
 44 However, if need is aggregated from more than two subdistricts,  
 45 the location of the proposed nursing home site must provide  
 46 reasonable geographic access for residents in the respective  
 47 subdistricts given the relative bed need in each.

48 Section 2. Subsection (2) and paragraphs (f), (k), (p),  
 49 and (q) of subsection (3) of section 408.036, Florida Statutes,  
 50 are amended to read:

51 408.036 Projects subject to review; exemptions.—

52 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt

53 pursuant to subsection (3), the following projects are subject  
 54 ~~to an expedited review shall include, but not be limited to:~~

55 (a) A transfer of a certificate of need, except that when  
 56 an existing hospital is acquired by a purchaser, all  
 57 certificates of need issued to the hospital which are not yet  
 58 operational shall be acquired by the purchaser, ~~without need for~~  
 59 a transfer.

60 (b) Replacement of a nursing home, if the proposed project  
 61 site within the same district, if the proposed project site is  
 62 located within a geographic area that contains at least 65  
 63 percent of the facility's current residents and is within a 30-  
 64 mile radius of the replaced nursing home.

65 (c) Replacement of a nursing home within the same  
 66 district, if the proposed project site is outside a 30-mile  
 67 radius of the replaced nursing home but within the same  
 68 subdistrict or a geographically contiguous subdistrict. If the  
 69 proposed project site is in the geographically contiguous  
 70 subdistrict, the prior 6-month occupancy rate for licensed  
 71 community nursing homes for that subdistrict must be at least 85  
 72 percent in accordance with the agency's most recently published  
 73 inventory.

74 ~~(d)-(e)~~ Relocation of a portion of a nursing home's  
 75 licensed beds to a facility within the same district, if the  
 76 relocation is within a 30-mile radius of the existing facility  
 77 and the total number of nursing home beds in the district does  
 78 not increase.

79            ~~(e)(d)~~ The new construction of a community nursing home in  
 80 a retirement community as further provided in this paragraph.  
 81            1. Expedited review under this paragraph is available if  
 82 all of the following criteria are met:  
 83            a. The residential use area of the retirement community is  
 84 deed-restricted as housing for older persons as defined in s.  
 85 760.29(4)(b).  
 86            b. The retirement community is located in a county in  
 87 which 25 percent or more of its population is age 65 and older.  
 88            c. The retirement community is located in a county that  
 89 has a rate of no more than 16.1 beds per 1,000 persons age 65  
 90 years or older. The rate shall be determined by using the  
 91 current number of licensed and approved community nursing home  
 92 beds in the county per the agency's most recent published  
 93 inventory.  
 94            d. The retirement community has a population of at least  
 95 8,000 residents within the county, based on a population data  
 96 source accepted by the agency.  
 97            e. The number of proposed community nursing home beds in  
 98 an application does not exceed the projected bed need after  
 99 applying the rate of 16.1 beds per 1,000 persons aged 65 years  
 100 and older projected for the county 3 years into the future using  
 101 the estimates adopted by the agency reduced by, ~~after~~  
 102 ~~subtracting~~ the agency's most recent published inventory of  
 103 licensed and approved community nursing home beds in the county  
 104 ~~per the agency's most recent published inventory.~~

105           2. No more than 120 community nursing home beds shall be  
 106 approved for a qualified retirement community under each request  
 107 ~~for application~~ for expedited review. Subsequent requests for  
 108 expedited review under this process may ~~shall~~ not be made until  
 109 2 years after construction of the facility has commenced or 1  
 110 year after the beds approved through the initial request are  
 111 licensed, whichever occurs first.

112           3. The total number of community nursing home beds which  
 113 may be approved for any single deed-restricted community  
 114 pursuant to this paragraph may ~~shall~~ not exceed 240, regardless  
 115 of whether the retirement community is located in more than one  
 116 qualifying county.

117           4. Each nursing home facility approved under this  
 118 paragraph must ~~shall~~ be dually certified for participation in  
 119 the Medicare and Medicaid programs.

120           5. Each nursing home facility approved under this  
 121 paragraph must ~~shall~~ be at least 1 mile, as measured over  
 122 publicly owned roadways, from an existing approved and licensed  
 123 community nursing home, ~~measured over publicly owned roadways~~.

124           ~~6. Section 408.0435 does not apply to this paragraph.~~

125           ~~6.7.~~ A retirement community requesting expedited review  
 126 under this paragraph shall submit a written request to the  
 127 agency for ~~an~~ expedited review. The request must ~~shall~~ include  
 128 the number of beds to be added and provide evidence of  
 129 compliance with the criteria specified in subparagraph 1.

130           ~~7.8.~~ After verifying that the retirement community meets

131 the criteria for expedited review specified in subparagraph 1.,  
 132 the agency shall publicly notice in the Florida Administrative  
 133 Register that a request for an expedited review has been  
 134 submitted by a qualifying retirement community and that the  
 135 qualifying retirement community intends to make land available  
 136 for the construction and operation of a community nursing home.  
 137 The agency's notice must ~~shall~~ identify where potential  
 138 applicants can obtain information describing the sales price of,  
 139 or terms of the land lease for, the property on which the  
 140 project will be located and the requirements established by the  
 141 retirement community. The agency notice must ~~shall~~ also specify  
 142 the deadline for submission of the any certificate-of-need  
 143 application, which may ~~shall~~ not be earlier than the 91st day or  
 144 ~~and not be~~ later than the 125th day after the date the notice  
 145 appears in the Florida Administrative Register.

146 ~~8.9-~~ The qualified retirement community shall make land  
 147 available to applicants it deems to have met its requirements  
 148 for the construction and operation of a community nursing home  
 149 but may ~~will~~ sell or lease the land only to the applicant that  
 150 is issued a certificate of need by the agency under ~~the~~  
 151 ~~provisions of~~ this paragraph.

152 a. A certificate of need application submitted under  
 153 ~~pursuant to~~ this paragraph must ~~shall~~ identify the intended site  
 154 for the project within the retirement community and the  
 155 anticipated costs for the project based on that site. The  
 156 application must ~~shall~~ also include written evidence that the



157 retirement community has determined that both the provider  
 158 submitting the application and the project satisfy ~~proposed by~~  
 159 ~~that provider satisfies~~ its requirements for the project.

160 b. If the retirement community determines ~~community's~~  
 161 ~~determination~~ that more than one provider satisfies its  
 162 requirements for the project, it may notify ~~does not preclude~~  
 163 ~~the retirement community from notifying~~ the agency of the  
 164 provider it prefers.

165 ~~9.10.~~ The agency shall review each submitted application  
 166 ~~submitted shall be reviewed by the agency.~~ If multiple  
 167 applications are submitted for a ~~the~~ project ~~as~~ published  
 168 pursuant to subparagraph 7. 8., ~~then~~ the agency shall review the  
 169 competing applications ~~shall be reviewed by the agency.~~

170  
 171 The agency shall develop rules to implement the ~~provisions for~~  
 172 expedited review process, including time schedule, application  
 173 content that ~~which~~ may be reduced from the full requirements of  
 174 s. 408.037(1), and application processing.

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

177 ~~(f) For the creation of a single nursing home within a~~  
 178 ~~district by combining licensed beds from two or more licensed~~  
 179 ~~nursing homes within such district, regardless of subdistrict~~  
 180 ~~boundaries, if 50 percent of the beds in the created nursing~~  
 181 ~~home are transferred from the only nursing home in a county and~~  
 182 ~~its utilization data demonstrate that it had an occupancy rate~~

183 | ~~of less than 75 percent for the 12-month period ending 90 days~~  
 184 | ~~before the request for the exemption. This paragraph is repealed~~  
 185 | ~~upon the expiration of the moratorium established in s.~~  
 186 | ~~408.0435(1).~~

187 |       (j) For the addition of nursing home beds licensed  
 188 | under chapter 400 in a number not exceeding 10 total beds or 10  
 189 | percent of the number of beds licensed in the facility being  
 190 | expanded, whichever is greater; or, for the addition of nursing  
 191 | home beds licensed under chapter 400 at a facility that has been  
 192 | designated as a Gold Seal nursing home under s. 400.235 in a  
 193 | number not exceeding 20 total beds or 10 percent of the number  
 194 | of licensed beds in the facility being expanded, whichever is  
 195 | greater.

196 |       1. In addition to any other documentation required by the  
 197 | agency, a request for exemption submitted under this paragraph  
 198 | must certify that:

199 |       a. ~~Certify that~~ The facility has not had any class I or  
 200 | class II deficiencies within the 30 months preceding the request  
 201 | ~~for addition.~~

202 |       b. ~~Certify that~~ The prior 12-month average occupancy rate  
 203 | for the nursing home beds at the facility meets or exceeds 94 ~~96~~  
 204 | percent.

205 |       c. ~~Certify that~~ Any beds authorized for the facility under  
 206 | this paragraph before the date of the current request for an  
 207 | exemption have been licensed and operational for at least 12  
 208 | months.

209           2. The timeframes and monitoring process specified in s.  
 210 408.040(2)(a)-(c) apply to any exemption issued under this  
 211 paragraph.

212           3. The agency shall count beds authorized under this  
 213 paragraph as approved beds in the published inventory of nursing  
 214 home beds until the beds are licensed.

215           ~~(o)~~~~(p)~~ For replacement of a licensed nursing home on the  
 216 same site, or within 5 ~~3~~ miles of the same site, if the number  
 217 of licensed beds does not increase.

218           ~~(p)~~~~(q)~~ For consolidation or combination of licensed  
 219 nursing homes or transfer of beds between licensed nursing homes  
 220 within the same planning district ~~subdistrict~~, by ~~providers that~~  
 221 ~~operate multiple~~ nursing homes with any shared controlled  
 222 interest within that planning district ~~subdistrict~~, if there is  
 223 no increase in the planning district ~~subdistrict~~ total number of  
 224 nursing home beds and the site of the relocation is not more  
 225 than 30 miles from the original location.

226           Section 3. Section 408.0435, Florida Statutes, is  
 227 repealed.

228           Section 4. This act shall take effect July 1, 2014.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health Innovation  
 2 Subcommittee

3 Representative Artiles offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (5) of section 408.034, Florida  
 8 Statutes, is amended, present subsection (6) of that section is  
 9 redesignated as subsection (8), and a new subsection (6) and  
 10 subsection (7) are added to that section, to read:

11 408.034 Duties and responsibilities of agency; rules.—

12 (5) The agency shall establish by rule a nursing-home-bed-  
 13 need methodology that has a goal of maintaining a subdistrict  
 14 average occupancy rate of 92 ~~94~~ percent and ~~that reduces the~~  
 15 ~~community nursing home bed need for the areas of the state where~~  
 16 ~~the agency establishes pilot community diversion programs~~  
 17 ~~through the Title XIX aging waiver program.~~



Amendment No.

18       (6) If nursing home bed need is determined to exist in  
19 geographically contiguous subdistricts within a district, an  
20 applicant may aggregate the subdistricts' need for a new  
21 community nursing home in one of the subdistricts. If need is  
22 aggregated from two subdistricts, the proposed nursing home site  
23 must be located in the subdistrict with the greater need as  
24 published by the agency in the Florida Administrative Register.  
25 However, if need is aggregated from more than two subdistricts,  
26 the location of the proposed nursing home site must provide  
27 reasonable geographic access for residents in the respective  
28 subdistricts given the relative bed need in each.

29       (7) If nursing home bed need is determined to exist in a  
30 subdistrict, an additional positive application factor may be  
31 recognized in the application review process for an applicant  
32 who agrees to voluntarily relinquish licensed nursing home beds  
33 in one or more subdistricts where there is no calculated need.  
34 The applicant must demonstrate that it operates, controls, or  
35 has an agreement with another licensed community nursing home to  
36 ensure that beds are voluntarily relinquished if the application  
37 is approved and the applicant is licensed.

38       Section 2. Subsection (2) and paragraphs (f), (k), (p),  
39 and (q) of subsection (3) of section 408.036, Florida Statutes,  
40 are amended to read:

41       408.036 Projects subject to review; exemptions.—



Amendment No.

42 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt  
43 pursuant to subsection (3), the following projects are subject  
44 to an expedited review shall include, but not be limited to:

45 (a) A Transfer of a certificate of need, except that when  
46 an existing hospital is acquired by a purchaser, all  
47 certificates of need issued to the hospital which are not yet  
48 operational shall be acquired by the purchaser, without need for  
49 a transfer.

50 (b) Replacement of a nursing home ~~within the same~~  
51 ~~district~~, if the proposed project site is ~~located within a~~  
52 ~~geographic area that contains at least 65 percent of the~~  
53 ~~facility's current residents and is within a 30-mile radius of~~  
54 ~~the replaced nursing home. If the proposed project site is~~  
55 outside the subdistrict where the replaced nursing home is  
56 located, the prior 6-month occupancy rate for licensed community  
57 nursing homes in the proposed subdistrict must be at least 85  
58 percent in accordance with the agency's most recently published  
59 inventory.

60 (c) Replacement of a nursing home within the same  
61 district, if the proposed project site is outside a 30-mile  
62 radius of the replaced nursing home but within the same  
63 subdistrict or a geographically contiguous subdistrict. If the  
64 proposed project site is in the geographically contiguous  
65 subdistrict, the prior 6-month occupancy rate for licensed  
66 community nursing homes for that subdistrict must be at least 85



Amendment No.

67 | percent in accordance with the agency's most recently published  
68 | inventory.

69 |       ~~(d)~~(e) Relocation of a portion of a nursing home's  
70 | licensed beds to another a facility or to establish a new  
71 | facility within the same district or within a geographically  
72 | contiguous district, if the relocation is within a 30-mile  
73 | radius of the existing facility and the total number of nursing  
74 | home beds in the state ~~district~~ does not increase.

75 |       ~~(e)~~(d) The New construction of a community nursing home in  
76 | a retirement community as further provided in this paragraph.

77 |       1. Expedited review under this paragraph is available if  
78 | all of the following criteria are met:

79 |       a. The residential use area of the retirement community is  
80 | deed-restricted as housing for older persons as defined in s.  
81 | 760.29(4)(b).

82 |       b. The retirement community is located in a county in  
83 | which 25 percent or more of its population is age 65 and older.

84 |       c. The retirement community is located in a county that  
85 | has a rate of no more than 16.1 beds per 1,000 persons age 65  
86 | years or older. The rate shall be determined by using the  
87 | current number of licensed and approved community nursing home  
88 | beds in the county per the agency's most recent published  
89 | inventory.

90 |       d. The retirement community has a population of at least  
91 | 8,000 residents within the county, based on a population data  
92 | source accepted by the agency.



Amendment No.

93 e. The number of proposed community nursing home beds in  
94 an application does not exceed the projected bed need after  
95 applying the rate of 16.1 beds per 1,000 persons aged 65 years  
96 and older projected for the county 3 years into the future using  
97 the estimates adopted by the agency reduced by, ~~after~~  
98 ~~subtracting~~ the agency's most recently published inventory of  
99 licensed and approved community nursing home beds in the county  
100 ~~per the agency's most recent published inventory.~~

101 2. No more than 120 community nursing home beds shall be  
102 approved for a qualified retirement community under each request  
103 ~~for application~~ for expedited review. Subsequent requests for  
104 expedited review under this process may ~~shall~~ not be made until  
105 2 years after construction of the facility has commenced or 1  
106 year after the beds approved through the initial request are  
107 licensed, whichever occurs first.

108 3. The total number of community nursing home beds which  
109 may be approved for any single deed-restricted community  
110 pursuant to this paragraph may ~~shall~~ not exceed 240, regardless  
111 of whether the retirement community is located in more than one  
112 qualifying county.

113 4. Each nursing home facility approved under this  
114 paragraph must ~~shall~~ be dually certified for participation in  
115 the Medicare and Medicaid programs.

116 5. Each nursing home facility approved under this  
117 paragraph must ~~shall~~ be at least 1 mile, as measured over





Amendment No.

118 publicly owned roadways, from an existing approved and licensed  
119 community nursing home, ~~measured over publicly owned roadways.~~

120 ~~6. Section 408.0435 does not apply to this paragraph.~~

121 ~~6.7.~~ A retirement community requesting expedited review  
122 under this paragraph shall submit a written request to the  
123 agency for ~~an~~ expedited review. The request must ~~shall~~ include  
124 the number of beds to be added and provide evidence of  
125 compliance with the criteria specified in subparagraph 1.

126 ~~7.8.~~ After verifying that the retirement community meets  
127 the criteria for expedited review specified in subparagraph 1.,  
128 the agency shall publicly notice in the Florida Administrative  
129 Register that a request for an expedited review has been  
130 submitted by a qualifying retirement community and that the  
131 qualifying retirement community intends to make land available  
132 for the construction and operation of a community nursing home.  
133 The agency's notice must ~~shall~~ identify where potential  
134 applicants can obtain information describing the sales price of,  
135 or terms of the land lease for, the property on which the  
136 project will be located and the requirements established by the  
137 retirement community. The agency notice must ~~shall~~ also specify  
138 the deadline for submission of the ~~any~~ certificate-of-need  
139 application, which may ~~shall~~ not be earlier than the 91st day or  
140 ~~and not be~~ later than the 125th day after the date the notice  
141 appears in the Florida Administrative Register.

142 ~~8.9.~~ The qualified retirement community shall make land  
143 available to applicants it deems to have met its requirements



Amendment No.

144 for the construction and operation of a community nursing home  
145 but ~~may will~~ sell or lease the land only to the applicant that  
146 is issued a certificate of need by the agency under ~~the~~  
147 ~~provisions of~~ this paragraph.

148 a. A ~~certificate-of-need~~ certificate of need application  
149 submitted ~~under pursuant to~~ this paragraph ~~must shall~~ identify  
150 the intended site for the project within the retirement  
151 community and the anticipated costs for the project based on  
152 that site. The application ~~must shall~~ also include written  
153 evidence that the retirement community has determined that both  
154 the provider submitting the application and the project satisfy  
155 ~~proposed by that provider satisfies~~ its requirements for the  
156 project.

157 b. If the retirement community determines ~~community's~~  
158 ~~determination~~ that more than one provider satisfies its  
159 requirements for the project, it may notify ~~does not preclude~~  
160 ~~the retirement community from notifying~~ the agency of the  
161 provider it prefers.

162 ~~9.10.~~ The agency shall review each submitted application  
163 ~~submitted shall be reviewed by the agency.~~ If multiple  
164 applications are submitted for a the project as published  
165 pursuant to subparagraph 7. 8., ~~then the~~ agency shall review the  
166 ~~competing applications shall be reviewed by the agency.~~

167  
168 The agency shall develop rules to implement the ~~provisions for~~  
169 expedited review process, including time schedule, application



Amendment No.

170 content that ~~which~~ may be reduced from the full requirements of  
171 s. 408.037(1), and application processing.

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

174 (f) For the addition of nursing home beds licensed under  
175 chapter 400 in a number not exceeding 30 total beds or 25  
176 percent of the number of beds licensed in the facility being  
177 replaced under paragraph (2)(b), paragraph (2)(c), or paragraph  
178 (p), whichever is less ~~For the creation of a single nursing home~~  
179 ~~within a district by combining licensed beds from two or more~~  
180 ~~licensed nursing homes within such district, regardless of~~  
181 ~~subdistrict boundaries, if 50 percent of the beds in the created~~  
182 ~~nursing home are transferred from the only nursing home in a~~  
183 ~~county and its utilization data demonstrate that it had an~~  
184 ~~occupancy rate of less than 75 percent for the 12-month period~~  
185 ~~ending 90 days before the request for the exemption. This~~  
186 ~~paragraph is repealed upon the expiration of the moratorium~~  
187 ~~established in s. 408.0435(1).~~

188 (k) For the addition of nursing home beds licensed under  
189 chapter 400 in a number not exceeding 10 total beds or 10  
190 percent of the number of beds licensed in the facility being  
191 expanded, whichever is greater; or, for the addition of nursing  
192 home beds licensed under chapter 400 at a facility that has been  
193 designated as a Gold Seal nursing home under s. 400.235 in a  
194 number not exceeding 20 total beds or 10 percent of the number



Amendment No.

195 of licensed beds in the facility being expanded, whichever is  
196 greater.

197 1. In addition to any other documentation required by the  
198 agency, a request for exemption submitted under this paragraph  
199 must certify that:

200 a. ~~Certify that~~ The facility has not had any class I or  
201 class II deficiencies within the 30 months preceding the request  
202 ~~for addition~~.

203 b. ~~Certify that~~ The prior 12-month average occupancy rate  
204 for the nursing home beds at the facility meets or exceeds 94 96  
205 percent.

206 c. ~~Certify that~~ Any beds authorized for the facility under  
207 this paragraph before the date of the current request for an  
208 exemption have been licensed and operational for at least 12  
209 months.

210 2. The timeframes and monitoring process specified in s.  
211 408.040(2)(a)-(c) apply to any exemption issued under this  
212 paragraph.

213 3. The agency shall count beds authorized under this  
214 paragraph as approved beds in the published inventory of nursing  
215 home beds until the beds are licensed.

216 (p) For replacement of a licensed nursing home on the same  
217 site, or within 5 3 miles of the same site if within the same  
218 subdistrict, if the number of licensed beds does not increase  
219 except as allowed by paragraph (f).



Amendment No.

220 (q) For consolidation or combination of licensed nursing  
221 homes or transfer of beds between licensed nursing homes within  
222 the same planning district subdistrict, by ~~providers that~~  
223 ~~operate multiple~~ nursing homes with any shared controlled  
224 interest within that planning district subdistrict, if there is  
225 no increase in the planning district subdistrict total number of  
226 nursing home beds and the site of the relocation is not more  
227 than 30 miles from the original location.

228 Section 3. Section 408.0435, Florida Statutes, is  
229 repealed.

230 Section 4. Section 408.0436, Florida Statutes, is created  
231 to read:

232 408.0436 Limitation on nursing home certificates of need.-  
233 Notwithstanding the establishment of need as provided in this  
234 chapter, the agency may not approve a certificate-of-need  
235 application for new community nursing home beds following the  
236 batching cycle in which the cumulative number of new community  
237 nursing home beds approved from July 1, 2014, to June 30, 2019,  
238 equals or exceeds 5,000. As used in this section, the term  
239 "batching cycle" means the grouping for comparative review of  
240 certificate-of-need applications submitted for beds, services,  
241 or programs having a like certificate-of-need need methodology  
242 or licensing category in the same planning horizon and the same  
243 applicable district or subdistrict. This section is repealed on  
244 July 1, 2019.

245 Section 5. This act shall take effect July 1, 2014.



Amendment No.

246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271

-----

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to certificates of need; amending s. 408.034, F.S.; decreasing the subdistrict average occupancy rate that the Agency for Health Care Administration is required to maintain as a goal of its nursing-home-bed-need methodology; conforming a provision to changes made by the act; authorizing an applicant to aggregate the need of geographically contiguous subdistricts within a district for a proposed community nursing home under certain circumstances; requiring the proposed nursing home site to be located in the subdistrict with the greater need under certain circumstances; recognizing an additional positive application factor for an applicant who voluntarily relinquishes certain nursing home beds; requiring the applicant to demonstrate that it meets certain requirements; amending s. 408.036, F.S.; providing that, under certain circumstances, replacement of a nursing home and relocation of a portion of a nursing home's licensed beds to another facility, or to establish a new facility, is a health-care-related project subject to expedited review; conforming a cross-reference;



Amendment No.

272 revising the requirements for projects that are exempted from  
273 applying for a certificate of need; repealing s. 408.0435, F.S.,  
274 relating to the moratorium on the approval of certificates of  
275 need for additional community nursing home beds; creating s.  
276 408.0436, F.S.; prohibiting the agency from approving a  
277 certificate-of-need application for new community nursing home  
278 beds under certain circumstances; defining the term "batching  
279 cycle"; providing a repeal; providing an effective date.