

# HEALTH CARE NEWS BEAT

OCTOBER 2014

## With Moratorium Lifted, Florida's Agency for Health Care Administration Announces Need for 3,115 New Nursing Home Beds in Florida

Citing the continued growth of Medicaid spending on nursing homes, and with the intention of providing more long term care in community-based settings, the 2001 Florida Legislature prohibited the approval of certificates of need (CONs) for new nursing home beds until 2006. *See* ch. 2001-45, § 52, Laws of Fla. (creating moratorium codified at F.S., 651.1185, later re-numbered F.S. 408.0435, and now repealed). The moratorium was extended several times. *See, e.g.*, ch. 2006-161, § 1, ch. 2011-135, § 4, Laws of Fla.

However, effective July 1, 2014, the moratorium prohibiting the approval of nursing home certificates of need was lifted. Chapter 2014-110, Laws of Florida amended CON laws governing the review of nursing homes. The new law made the approval of new nursing home beds slightly more likely than in the past (before the moratorium) by lowering the target occupancy for nursing home beds from 94% to 92%. Ch. 2014-110, §1, Laws of Fla. (amending F.S. 408.034(5)). The new law also enabled existing nursing homes to consider relocating their aging facilities to other areas, even if they are located in different sub-districts, and even if the new location is many miles away from the site originally approved for the nursing home. *See id.*, creating F.S. 408.034(6) and (7) and ch. 2014-110, § 2, amending F.S. 408.036.

Though the moratorium has been lifted, the new law includes a cap on the number of new nursing home beds that may be approved in the near term. No more than 3,750 new nursing home beds may be approved between July 1, 2014, and June 30, 2017. Ch. 2014-110, § 3, Laws of Fla.

**On October 3, 2014, the Agency announced a need for 3,115 new nursing home beds throughout Florida's eleven health planning districts** (see page 2). The announcement of this fixed need pool of beds signals a presumption that the additional beds are needed, and likely will be approved. Given the cap on new nursing home beds through June 30, 2017, this may represent the largest pronouncement of need that may be expected within the next few years.

Providers that seek to meet those needs by offering new nursing home beds must file letters of intent announcing their intention with the Agency for Health Care Administration no later than October 20, 2014.

For assistance with Certificate of Need Matters in Florida, contact Seann Frazier (850-681-0191) or Jon Rue (404-420-5536).

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**Florida Agency For Health Care Administration's**

**Community Nursing Home Bed Need**

District 1		
Subdistrict 1	160	(Escambia and Santa Rosa Counties)
Subdistrict 2	0	(Okaloosa County)
Subdistrict 3	0	(Walton County)
District 2		
Subdistrict 1	56	(Gadsden, Holmes, Jackson and Washington)
Subdistrict 2	63	(Bay County)
Subdistrict 3	14	(Calhoun, Franklin, Gulf, Liberty, Wakulla)
Subdistrict 4	86	(Leon County)
Subdistrict 5	19	(Jefferson, Madison and Taylor Counties)
District 3		
Subdistrict 1	99	(Columbia, Hamilton and Suwannee Counties)
Subdistrict 2	227	(Alachua, Bradford, Dixie, Gilchrist, Lafayette, Levy and Union Counties)
Subdistrict 3	43	(Putnam County)
Subdistrict 4	140	(Marion County)
Subdistrict 5	65	(Citrus County)
Subdistrict 6	66	(Hernando County)
Subdistrict 7	205	(Lake and Sumter Counties)
District 4		
Subdistrict 1	111	(Nassau and northern Duval Counties)
Subdistrict 2	170	(Baker, Clay and southwestern Duval Counties)
Subdistrict 3	167	(St. John's and southeastern Duval Counties)
Subdistrict 4	0	(Flagler and Volusia Counties)
District 5		
Subdistrict 1	67	(Pasco County)
Subdistrict 2	89	(Pinellas County)
District 6		
Subdistrict 1	110	(Hillsborough County)
Subdistrict 2	0	(Manatee County)
Subdistrict 3	0	(Hardee County)
Subdistrict 4	25	(Highlands County)
Subdistrict 5	203	(Polk County)
District 7		
Subdistrict 1	131	(Brevard County)
Subdistrict 2	218	(Orange County)
Subdistrict 3	130	(Osceola County)
Subdistrict 4	122	(Seminole County)
District 8		
Subdistrict 1	23	(Charlotte County)
Subdistrict 2	37	(Collier County)
Subdistrict 3	0	(DeSoto County)
Subdistrict 4	0	(Glades and Hendry Counties)
Subdistrict 5	40	(Lee County)
Subdistrict 6	0	(Sarasota County)
District 9		
Subdistrict 1	18	(Indian River County)
Subdistrict 2	37	(Martin County)
Subdistrict 3	6	(Okeechobee County)
Subdistrict 4	0	(Palm Beach County)
Subdistrict 5	0	(St. Lucie County)
District 10	0	(Broward County)
District 11		
Subdistrict 1	168	(Miami-Dade County)
Subdistrict 2	0	(Monroe County)
<b>Total Statewide:</b>	<b>3,115</b>	

*This memorandum is provided to clients and friends of Parker, Hudson, Ramer & Dobbs LLP with the express understanding that it does not constitute the rendering of legal or other professional advice by any attorney of Parker, Hudson, Ramer & Dobbs LLP. This memorandum is instead intended to summarize recent reported decisions, changes in the law and advisory opinions that may be of interest to clients and friends of the firm. The firm undertakes no responsibility to advise recipients of this memorandum of the reversal, modification or overruling of any of the law reported in this memorandum or prior or subsequent decisions of other jurisdictions that may be at variance with summaries reported in this memorandum.*