AN ACT RELATING TO HEALTH AND SAFETY - LICENSING OF HEALTHCARE FACILITIES

Introduced By: Representative Joseph M. McNamara
Date Introduced: February 13, 2013
Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Section 23-17-44 of the General Laws in Chapter 23-17 entitled "Licensing of Health Care Facilities" is hereby amended to read as follows:

23-17-44. Moratorium on new initial nursing facility licensed beds and on increases to the licensed capacity of existing nursing facility licenses. -- (a) The licensing agency shall issue no new initial licenses for nursing facilities prior to July 1, 2013 July 1, 2016; provided, however, that:

(1) Any person holding a previously issued and valid certificate of need as of August 21, 1996 shall be permitted to effect a prior certificate from the licensing agency consistent with any other statutory and regulatory provisions which may further apply;

(2) Any person holding a nursing facility license may undertake activities to construct and operate a replacement nursing facility with the same or lower bed capacity as is presently licensed provided that the replacement facility may only be licensed upon the otherwise unconditional cessation of operation of the previously licensed nursing facility;

(b) Prior to July 1, 2013 July 1, 2016 and with the exception of the culture initiative pursuant to section 23-17-44(3), the licensing agency shall not increase the licensed bed capacity of any existing licensed nursing facility, including any nursing facility approved for change in ownership pursuant to sections 23-17-14.3 and 23-17-14.4, to greater than the level of the facility's licensed bed capacity as of August 21, 1996 plus the greater of ten (10) beds or ten percent (10%) of the licensed bed capacity. Any person holding a previously issued and valid
certification of need as of the date of passage of this section or who shall subsequently be granted a
certificate of need pursuant to subsection (a) shall be permitted to effect a prior certificate from
the licensing agency consistent with any other statutory and regulatory provisions which may
further apply.

(c) Notwithstanding any other provision of the law to the contrary, including any
moratorium on increasing bed capacity in nursing facilities that may otherwise apply, a nursing
facility may take out of service any or all beds of its licensed capacity without impediment to its
right to place back into service those beds at a future date under the same terms and conditions as
applied at the time of taking them out of service.

(d) From July 1 of 2009 through December 31, 2010, notwithstanding any other
provision herein to the contrary, including any moratorium on increasing bed capacity in nursing
facilities that may otherwise apply, a nursing home member of a multi-facility group may transfer
its entitlement to add up to ten (10) beds through the “ten (10) beds or ten percent (10%) of
capacity” exception provided for and in accordance with subsection (b) hereof to another nursing
facility in the same multi-facility group, provided that:

1. The beds thereby added are, in the discretion of the director of the department of
health, designed to provide enhanced quality of life to nursing facility residents through the
adoption of principles and building designs established by the “Eden alternative” or “Green house
” programs or other like means;

2. The nursing facility applying to receive the transferred beds has fewer than fifty (50)
licensed beds and has at least a ninety-four percent (94%) bed occupancy rate at the time of
application to obtain said additional bed licenses;

3. The transferred beds provided for in this subsection (d) shall be limited to a
maximum total of ten (10) beds per multi-facility group;

4. The transfer of beds results in a reduction in the number of nursing facility beds in
the state, including the beds transferred under this authority; and

5. For purposes of this subsection (d), the term “multi-facility group” shall mean two (2)
or more nursing facilities that are affiliated, which for purposes of this subsection shall mean two
or more nursing facilities that are controlled by, in control of, or in common control with, each
other.

(e) (d) Culture change initiative. - Notwithstanding any other provision of the law to the
contrary, including any moratorium on increasing bed capacity in nursing facilities that may
otherwise apply, the licensing agency may increase the licensed bed capacity of any existing
licensed nursing facility, including any nursing facility approved for change in ownership
pursuant to sections 23-17-14.3 and 23-17-14.4, for the purposes of nursing facility culture change, in accordance with the following criteria and procedures:

(i) Culture change definitions and criteria shall be established through regulation, to restrict beds added under this initiative only to beds that are designed to provide enhanced quality of life to nursing facility residents through the adoption of principles and building designs established by the "Eden alternative," "Green house," or "small house" programs or other like means;

(ii) Only beds taken out-of-service due to facility closure after January 1, 2010 shall be available for facility expansion under this culture change initiative subsection. The total number of beds that may be licensed to increase capacity under this culture change initiative shall be limited to ninety percent (90%) of the first fifty (50) beds that are taken out-of-service, to seventy percent (70%) of the next fifty (50) beds that are taken out-of-service, and to fifty percent (50%) of any additional beds taken out-of-service;

(iii) Only nursing facilities licensed in the state are eligible to expand under the culture change initiative;

(iv) The department shall promulgate regulations to govern an open and competitive process to determine the licensure of expansion beds under this culture change initiative, and shall consider the impact on the regional distribution of, and access to, nursing facility beds in the state;

(v) Any facility seeking to expand their licensed bed capacity under this initiative, that will result in an expenditure that meets or exceeds the criteria for determination of need review under chapter 23-15, shall be required to receive approval under chapter 23-15.

(vi) On or before March 15, 2012, the department shall gather information from the department of human services and shall report to the president of the senate and the speaker of the house of representatives on the costs and benefits to the state of this culture change initiative, including recommendations for revision or termination of the initiative.

SECTION 2. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
RELATING TO HEALTH AND SAFETY - LICENSING OF HEALTHCARE FACILITIES

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1 This act would extend until July 1, 2016 the moratorium on new initial licenses for nursing facilities as well as increases the bed capacity of any existing licensed nursing facility and would eliminate the exception allowing certain nursing facilities to transfer beds to other nursing facilities.
5 This act would take effect upon passage.

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