

2019 -- S 0571

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LC001811  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO HEALTH AND SAFETY -- LICENSING OF HEALTH CARE FACILITIES

Introduced By: Senator Joshua Miller

Date Introduced: March 14, 2019

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

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

3           **23-17-44. Moratorium on new initial nursing-facility licensed beds and on increases**  
4 **to the licensed capacity of existing nursing-facility licenses.**

5           (a) The licensing agency shall issue no new initial licenses for nursing facilities prior to  
6 July 1, ~~2019~~ 2022; provided, however, that any person holding a nursing facility license may  
7 undertake activities to construct and operate a replacement nursing facility with the same or lower  
8 bed capacity as is presently licensed, provided that the replacement facility may only be licensed  
9 upon the otherwise unconditional cessation of operation of the previously licensed nursing  
10 facility;

11           (b) Prior to July 1, ~~2019~~ 2022, and with the exception of the culture initiative pursuant to  
12 subsection (d), the licensing agency shall not increase the licensed bed capacity of any existing  
13 licensed nursing facility, including any nursing facility approved for change in ownership  
14 pursuant to §§ 23-17-14.3 and 23-17-14.4, to greater than the level of the facility's licensed bed  
15 capacity as of August 21, 1996, plus the greater of ten (10) beds or ten percent (10%) of the  
16 licensed bed capacity. Any person holding a previously issued and valid certificate of need as of  
17 the date of passage of this section, or who shall subsequently be granted a certificate of need  
18 pursuant to subsection (a), shall be permitted to effect a prior certificate from the licensing agency  
19 consistent with any other statutory and regulatory provisions that may further apply.

1 Notwithstanding any other provision of the law to the contrary, including any moratorium on  
2 increasing bed capacity in nursing facilities that may otherwise apply, the licensing agency shall  
3 be permitted to increase the licensed bed capacity of an existing nursing facility by no more than  
4 the number of beds previously licensed to one or more other licensed nursing facilities provided  
5 that:

6 (1) All nursing facilities involved in any such transaction must be located within the same  
7 municipality;

8 (2) The owner of a licensed nursing care facility seeking to increase its licensed bed  
9 capacity must receive approval, following review by the health services council from the  
10 licensing agency for change in owner of the nursing facility or facilities;

11 (3) The nursing facility's licensed bed capacity may only be increased upon the otherwise  
12 unconditional cessation of operation of the previously licensed other nursing facility or facilities  
13 and the return of the license of the nursing facility or nursing facilities to the licensing agency;  
14 and

15 (4) The licensed nursing care facility seeking to increase its licensed bed complement  
16 must comply with any requirements of the health care certificate of need act, chapter 15 of title  
17 23.

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

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

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

34 (ii) Only beds taken out of service due to facility closure after January 1, 2010, shall be

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

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

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

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

15 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would mandate that no new initial licenses for nursing facilities would be issued  
2 prior to July 1, 2022. Also, prior to July 1, 2022, the licensing agency would not be allowed to  
3 increase the licensed bed capacity of any existing licensed nursing facility including any nursing  
4 facility approved for change in ownership.

5           This act would take effect upon passage.

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