

2013 -- H 5400

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

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:

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.** -- (a) The licensing agency shall

5 issue no new initial licenses for nursing facilities prior to ~~July 1, 2013~~ July 1, 2016; provided,
6 however, that: any

7 ~~(1) Any person holding a previously issued and valid certificate of need as of August 21,~~
8 ~~1996 shall be permitted to effect a prior certificate from the licensing agency consistent with any~~
9 ~~other statutory and regulatory provisions which may further apply;~~

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

14 (b) Prior to ~~July 1, 2013~~ July 1, 2016 and with the exception of the culture initiative
15 pursuant to section 23-17-44(3), the licensing agency shall not increase the licensed bed capacity
16 of any existing licensed nursing facility, including any nursing facility approved for change in
17 ownership pursuant to sections 23-17-14.3 and 23-17-14.4, to greater than the level of the
18 facility's licensed bed capacity as of August 21, 1996 plus the greater of ten (10) beds or ten
19 percent (10%) of the licensed bed capacity. Any person holding a previously issued and valid

1 certificate of need as of the date of passage of this section or who shall subsequently be granted a
2 certificate of need pursuant to subsection (a) shall be permitted to effect a prior certificate from
3 the licensing agency consistent with any other statutory and regulatory provisions which may
4 further apply.

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

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

16 ~~(1) The beds thereby added are, in the discretion of the director of the department of~~
17 ~~health, designed to provide enhanced quality of life to nursing facility residents through the~~
18 ~~adoption of principles and building designs established by the "Eden alternative" or "Green house~~
19 ~~" programs or other like means;~~

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

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

25 ~~(4) The transfer of beds results in a reduction in the number of nursing facility beds in~~
26 ~~the state, including the beds transferred under this authority; and~~

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

31 (e) (d) Culture change initiative. - Notwithstanding any other provision of the law to the
32 contrary, including any moratorium on increasing bed capacity in nursing facilities that may
33 otherwise apply, the licensing agency may increase the licensed bed capacity of any existing
34 licensed nursing facility, including any nursing facility approved for change in ownership

1 pursuant to sections 23-17-14.3 and 23-17-14.4, for the purposes of nursing facility culture
2 change, in accordance with the following criteria and procedures:

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

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

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

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

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

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

27 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 extend until July 1, 2016 the moratorium on new initial licenses for
2 nursing facilities as well as increases the bed capacity of any existing licensed nursing facility and
3 would eliminate the exception allowing certain nursing facilities to transfer beds to other nursing
4 facilities.

5 This act would take effect upon passage.

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