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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO HEALTH AND SAFETY -- LICENSING OF HEALTH CARE FACILITIES --
THE HOSPITAL CONVERSION ACT

Introduced By: Representative David A. Bennett

Date Introduced: January 25, 2021

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17-13.1 of the General Laws in Chapter 23-17 entitled "Licensing
2 of Health-Care Facilities" is hereby amended to read as follows:

3 **23-17-13.1. Health services council.**

4 ~~(a) There shall be established a health services council consisting of twelve (12) members,~~
5 ~~four (4) of whom shall be appointed by the speaker of the house, one who shall be an expert in~~
6 ~~healthcare economic and policy matters, and a second who shall represent the insurance business;~~
7 ~~four (4) of whom shall be appointed by the president of the senate, one who shall represent the~~
8 ~~business community, and a second who shall represent the general public; and four (4) of whom~~
9 ~~shall be appointed by the governor, one who shall represent the office of the health insurance~~
10 ~~commissioner, a second who shall represent the executive office of health and human services, a~~
11 ~~third who shall represent the health insurance business, and a fourth who shall represent the~~
12 ~~executive office of commerce. All members shall serve until the first day of July in the third year~~
13 ~~after appointment or until their respective successors are appointed and qualified. Any vacancy of~~
14 ~~a member appointed that may occur in the council shall be filled by appointment by the respective~~
15 ~~appointing authority for the remainder of the unexpired term. The council may also serve as an~~
16 ~~advisory council as authorized by § 23-16-3. twenty-four (24) members, eight (8) of whom shall~~
17 ~~be appointed by the speaker of the house, one of whom shall represent hospital service corporations,~~
18 ~~six (6) of whom shall be appointed by the president of the senate, one of whom shall represent~~

1 hospitals and one of whom shall represent the business community, and ten (10) of whom shall be
2 appointed by the governor, one of whom shall represent the state budget office, one of whom shall
3 represent the department of human services and two (2) of whom shall be members of the general
4 public that maintain their principal residence within fifteen hundred feet (1500') of a licensed
5 hospital. The governor shall appoint members of the council in staggered appointments, three (3)
6 members one year, two (2) members the next year, and two (2) members the year after that. All
7 members shall serve until their successors are appointed and qualified. In the month of February in
8 each year, the governor shall appoint successors to the members of the council whose terms shall
9 expire in that year, to hold office commencing on the first day of March in the year of appointment
10 until the first day of March in the third year after appointment or until their respective successors
11 are appointed and qualified. Any vacancy of an appointed member which may occur in the
12 commission shall be filled by appointment by the respective appointing authority for the remainder
13 of the unexpired term. The council may also serve as an advisory council as authorized by § 23-16-
14 3.

15 ~~(b) A person may not be a member of the health services council if the person is required~~
16 ~~to register as a lobbyist as defined under chapter 139 of title 42.~~

17 ~~(c) Notwithstanding any laws, rules, or regulations to the contrary, all recommendations of~~
18 ~~the health services council shall be by a majority vote of its members present at the time the vote~~
19 ~~is taken.~~

20 SECTION 2. Sections 23-17.14-6, 23-17.14-7, 23-17.14-8, 23-17.14-11, 23-17.14-12.1,
21 23-17.14-14, 23-17.14-17, 23-17.14-28 and 23-17.14-30 of the General Laws in Chapter 23-17.14
22 entitled "The Hospital Conversions Act" are hereby amended to read as follows:

23 **23-17.14-6. Initial application -- Conversions involving for-profit corporations or not-**
24 **for-profit as acquirors.**

25 (a) No person shall engage in a conversion with a for profit corporation as the acquiror and
26 a not-for-profit corporation as the acquiree involving the establishment, maintenance, or operation
27 of a hospital or a conversion subject to § 23-17.14-9 without prior approval of both the department
28 of attorney general and the department of health. The review of the two (2) departments shall occur
29 concurrently, and neither department shall delay its review or determination because the other
30 department has not completed its review or issued its determination. The applicant may request that
31 the review by the departments occur concurrently with the review of any relevant federal regulatory
32 authority. The transacting parties shall file an initial application in accordance with subsection (b)
33 of this section that shall, at minimum, include the following information with respect to each
34 transacting party and to the proposed new hospital:

- 1 (1) A detailed summary of the proposed conversion;
- 2 (2) Names, addresses and phone numbers of the transacting parties;
- 3 (3) Name, address, phone number, occupation, and tenure of all officers, members of the
4 board of directors, trustees, executives, and senior managers, including for each position, current
5 persons and persons holding such position during the past two (2) years;
- 6 (4) A list of all committees, subcommittees, task forces, or similar entities of the board of
7 directors or trustees, including a short description of the purpose of each committee, subcommittee,
8 task force, or similar entity and the name, address, phone number, occupation, and tenure of each
9 member;
- 10 (5) Agenda and minutes of all meetings of the board of directors or trustees and any of its
11 committees, subcommittees, task forces related to the conversion, or similar entities excluding
12 those focused on peer review and confidential medical matters, that occurred within the two (2)
13 year period prior to submission of the application, including, upon the request of the department or
14 attorney general, any meeting packages;
- 15 (6) Articles of incorporation and certificate of incorporation;
- 16 (7) Bylaws and organizational charts;
- 17 (8) Organizational structure for existing transacting parties and each partner, affiliate,
18 parent, subsidiary or related corporate entity in which the acquiror has a twenty percent (20%) or
19 greater ownership interest;
- 20 (9) Conflict of interest statements, policies and procedures;
- 21 (10) Names, addresses and phone numbers of professional consultants engaged in
22 connection with the proposed conversion;
- 23 (11) Copies of audited income statements, balance sheets, other financial statements, and
24 management letters for the past three (3) years and to the extent they have been made public, audited
25 interim financial statements and income statements together with detailed description of the
26 financing structure of the proposed conversion including equity contribution, debt restructuring,
27 stock issuance, partnership interests, stock offerings and the like;
- 28 (12) A detailed description of real estate issues including title reports for land owned and
29 lease agreements concerning the proposed conversion;
- 30 (13) A detailed description as each relates to the proposed transaction for equipment leases,
31 insurance, regulatory compliance, tax status, pending litigation or pending regulatory citations,
32 ~~pension~~ [current retirement](#) plan descriptions and [other](#) employee ~~benefits~~ [benefit plan descriptions](#),
33 [as well as any planned changes thereto](#), environmental reports, assessments and organizational
34 goals;

1 (14) Copies of reports analyzing the proposed conversion during the past three (3) years
2 including, but not limited to, reports by appraisers, accountants, investment bankers, actuaries and
3 other experts;

4 (15) Copies of any opinions or memoranda addressing the state and federal tax
5 consequences of the proposed conversion prepared for a transacting party by an attorney,
6 accountant, or other expert;

7 (16) A description of the manner in which the price was determined including which
8 methods of valuation and what data were used, and the names and addresses of persons preparing
9 the documents, and this information is deemed to be proprietary;

10 (17) Patient statistics for the past three (3) years and patient projections for the next one
11 year including patient visits, admissions, emergency room visits, clinical visits, and visits to each
12 department of the hospital, admissions to nursing care or visits by affiliated home health care
13 entities;

14 (18) The name and mailing address of all licensed facilities in which the for-profit
15 corporation maintains an ownership interest or controlling interest or operating authority;

16 (19) A list of pending or adjudicated citations, violations, [deficiencies](#) or charges against
17 the facilities listed in subdivision (a)(18) brought by any governmental agency or accrediting
18 agency, [including all documentation and communications to and from the joint commission on](#)
19 [accreditation of health care organizations relative thereto](#) within the past ~~three (3)~~ [ten \(10\)](#) years
20 and the status or disposition of each matter with regard to patient care and charitable asset matters;

21 (20) A list of uncompensated care provided over the past three (3) years by each facility
22 listed in subdivision (a)(18) and detail as to how that amount was calculated;

23 (21) Copies of all documents related to:

24 (i) Identification of all charitable assets

25 (ii) Accounting of all charitable assets for the past three (3) years; and

26 (iii) Distribution of the charitable assets including, but not limited to, endowments,
27 restricted, unrestricted and specific purpose funds as each relates to the proposed transaction;

28 (22) A description of charity care and uncompensated care provided by the existing hospital
29 for the previous three (3) year period to the present including a dollar amount and a description of
30 services provided to patients;

31 (23) A description of bad debt incurred by the existing hospital for the previous three (3)
32 years for which payment was anticipated but not received;

33 (24) A description of the plan as to how the new hospital will provide community benefit
34 and charity care during the first three (3) years of operation;

- 1 (25) A description of how the new hospital will monitor and value charity care services
2 and community benefit;
- 3 (26) The names of persons currently holding a position as an officer, director, board
4 member, or senior manager who will or will not maintain any position with the new hospital and
5 whether any said person will receive any salary, severance stock offering or any financial gain,
6 current or deferred, as a result of or in relation to the proposed conversion;
- 7 (27) Copies of capital and operating budgets or other financial projections for the new
8 hospital during the first three (3) years of operation;
- 9 (28) Copies of plans relative to staffing during the first ~~three (3)~~ ten (10) years at the new
10 hospital;
- 11 (29) A list of all medical services, departments and clinical services, and administrative
12 services which will be maintained at the new hospital and the estimated length of time such services
13 shall be maintained;
- 14 (30) A description of criteria established by the board of directors of the existing hospital
15 for pursuing a proposed conversion with one or more health care providers;
- 16 (31) Copies of reports of any due diligence review performed by each transacting party in
17 relation to the proposed conversion. These reports are to be held by the attorney general and
18 department of health as confidential and not released to the public regardless of any determination
19 made pursuant to § 23-17.14-32 and not withstanding any other provision of the general laws;
- 20 (32) A description of request for proposals issued by the existing hospital relating to
21 pursuing a proposed conversion;
- 22 (33) Copies of reports analyzing affiliations, mergers, or other similar transactions
23 considered by any of the transacting parties during the past three (3) years, including, but not limited
24 to, reports by appraisers, accountants, investment bankers, actuaries and other experts;
- 25 (34) A copy of proposed contracts or description of proposed contracts or arrangements
26 with senior managers, board members, officers, or directors of the existing hospital for severance
27 consulting services or covenants not to compete following completion of the proposed conversion;
- 28 (35) A copy or description of all agreements or proposed agreements reflecting any current
29 and/or future employment or compensated relationship between the acquiror (or any related entity)
30 and any officer, director, board member, or senior manager of the acquiree (or any related entity);
- 31 (36) A copy or description of all agreements executed or anticipated to be executed by any
32 of the transacting parties in connection with the proposed conversion;
- 33 (37) Copies of documents or description of any proposed plan for any entity to be created
34 for charitable assets, including but not limited to, endowments, restricted, unrestricted and specific

1 purpose funds, the proposed articles of incorporation, by-laws, mission statement, program agenda,
2 method of appointment of board members, qualifications of board members, duties of board
3 members, and conflict of interest policies;

4 (38) Description [and detailed justification](#) of all departments, clinical, social, or other
5 services or medical services that will be eliminated or significantly reduced at the new hospital [and](#)
6 [a transition plan ensuring existing patients' continued access to such services moving forward and](#)
7 [continued employment for those who lose their jobs](#);

8 (39) Description of staffing levels of all categories of employees, including full-time, part-
9 time, and contract employees currently working at or providing services to the existing hospital and
10 description of any anticipated or proposed changes in current staffing levels;

11 (40) Copies of current conflict of interest forms from all incumbent or recently incumbent
12 officers, members of the boards of directors or trustees and senior managers, including the medical
13 directors, of the transacting parties on a form acceptable to the attorney general; "incumbent or
14 recently incumbent" means those individuals holding the position at the time the application is
15 submitted and any individual who held a similar position within one year prior to the application's
16 acceptance;

17 (41) If the acquiror is a for profit corporation that has acquired a not for profit hospital
18 under the provisions of this chapter, the application shall also include a complete statement of
19 performance during the preceding one year with regard to the terms and conditions of approval of
20 conversion and each projection, plan, or description submitted as part of the application for any
21 conversion completed under an application submitted pursuant to this section and made a part of
22 an approval for the conversion pursuant to § 23-17.14-7, 23-17.14-8 or 23-14.14-19;

23 (42) Copies of IRS Form 990 for any transacting party required by federal law to file such
24 a form for each of the three (3) years prior to the submission of the application.

25 (b) Two (2) copies of the initial application shall be provided to each of the department of
26 health and department of the attorney general simultaneously by United States mail, certified, return
27 receipt requested. Filings may be submitted electronically if acceptable to the department of health
28 and/or attorney general.

29 (c) Except for information determined by the attorney general in accordance with § 23-
30 17.14-32 to be confidential and/or proprietary, or otherwise required by law to be maintained as
31 confidential, the initial application and supporting documentation shall be considered public
32 records and shall be available for inspection upon request.

33 **23-17.14-7. Review process of the department of attorney general and the department**
34 **of health and review criteria by department of attorney general.**

1 (a) The department of attorney general shall review all conversions involving a hospital in
2 which one or more of the transacting parties involves a for-profit corporation as the acquiror and a
3 not-for-profit corporation as the acquiree.

4 (b) In reviewing proposed conversions in accordance with this section and § 23-17.14-10,
5 the department of attorney general and department of health shall adhere to the following process:

6 (1) Within thirty (30) days after receipt of an initial application, the department of attorney
7 general and department of health shall jointly advise the applicant, in writing, whether the
8 application is complete, and, if not, shall specify all additional information the applicant is required
9 to provide;

10 (2) The applicant will submit the additional information within thirty (30) working days.
11 If the additional information is submitted within the thirty-day (30) period, the department of
12 attorney general and department of health will have ten (10) working days within which to
13 determine acceptability of the additional information. If the additional information is not submitted
14 by the applicant within the thirty-day (30) period or if either agency determines the additional
15 information submitted by the applicant is insufficient, the application will be rejected without
16 prejudice to the applicant's right to resubmit, the rejection to be accompanied by a detailed written
17 explanation of the reasons for rejection. If the department of attorney general and department of
18 health determine the additional information to be as requested, the applicant will be notified, in
19 writing, of the date of acceptance of the application;

20 (3) Within thirty (30) working days after acceptance of the initial application, the
21 department of attorney general shall render its determination on confidentiality pursuant to § 23-
22 17.14-32 and the department of attorney general and department of health shall publish notice of
23 the application in a newspaper of general circulation in the state and shall notify by United States
24 mail any person who has requested notice of the filing of the application. The notice shall:

25 (i) State that an initial application has been received and accepted for review;

26 (ii) State the names of the transacting parties;

27 (iii) State the date by which a person may submit written comments to the department of
28 attorney general or department of health; and

29 (iv) Provide notice of the date, time, and place of informational meeting open to the public
30 which shall be conducted within sixty (60) days of the date of the notice;

31 (4) The department of attorney general and department of health shall each approve,
32 approve with conditions directly related to the proposed conversion, or disapprove the application
33 within one hundred twenty (120) days of the date of acceptance of the application.

34 (c) In reviewing an application pursuant to subsection (a) of this section, the department of

1 the attorney general shall consider the following criteria:

2 (1) Whether the proposed conversion will harm the public's interest in trust property given,
3 devised, or bequeathed to the existing hospital for charitable, educational, or religious purposes
4 located or administered in this state;

5 (2) Whether a trustee or trustees of any charitable trust located or administered in this state
6 will be deemed to have exercised reasonable care, diligence, and prudence in performing as a
7 fiduciary in connection with the proposed conversion;

8 (3) Whether the board established appropriate criteria in deciding to pursue a conversion
9 in relation to carrying out its mission and purposes;

10 (4) Whether the board formulated and issued appropriate requests for proposals in pursuing
11 a conversion;

12 (5) Whether the board considered the proposed conversion as the only alternative or as the
13 best alternative in carrying out its mission and purposes;

14 (6) Whether any conflict of interest exists concerning the proposed conversion relative to
15 members of the board, officers, directors, senior management, experts, or consultants engaged in
16 connection with the proposed conversion including, but not limited to, attorneys, accountants,
17 investment bankers, actuaries, healthcare experts, or industry analysts;

18 (7) Whether individuals described in subsection (c)(6) of this section were provided with
19 contracts or consulting agreements or arrangements that included pecuniary rewards based in
20 whole, or in part on the contingency of the completion of the conversion;

21 (8) Whether the board exercised due care in engaging consultants with the appropriate level
22 of independence, education, and experience in similar conversions;

23 (9) Whether the board exercised due care in accepting assumptions and conclusions
24 provided by consultants engaged to assist in the proposed conversion;

25 (10) Whether the board exercised due care in assigning a value to the existing hospital and
26 its charitable assets in proceeding to negotiate the proposed conversion;

27 (11) Whether the board exposed an inappropriate amount of assets by accepting in
28 exchange for the proposed conversion future or contingent value based upon success of the new
29 hospital;

30 (12) Whether officers, directors, board members, or senior management will receive future
31 contracts in existing, new, or affiliated hospital or foundations;

32 (13) Whether any members of the board will retain any authority in the new hospital;

33 (14) Whether the board accepted fair consideration and value for any management
34 contracts made part of the proposed conversion;

- 1 (15) Whether individual officers, directors, board members, or senior management
2 engaged legal counsel to consider their individual rights or duties in acting in their capacity as a
3 fiduciary in connection with the proposed conversion;
- 4 (16) Whether the proposed conversion results in an abandonment of the original purposes
5 of the existing hospital or whether a resulting entity will depart from the traditional purposes and
6 mission of the existing hospital such that a cy pres proceeding would be necessary;
- 7 (17) Whether the proposed conversion contemplates the appropriate and reasonable fair
8 market value;
- 9 (18) Whether the proposed conversion was based upon appropriate valuation methods
10 including, but not limited to, market approach, third-party report, or fairness opinion;
- 11 (19) Whether the conversion is proper under the Rhode Island Nonprofit Corporation Act;
- 12 (20) Whether the conversion is proper under applicable state tax code provisions;
- 13 (21) Whether the proposed conversion jeopardizes the tax status of the existing hospital;
- 14 (22) Whether the individuals who represented the existing hospital in negotiations avoided
15 conflicts of interest;
- 16 (23) Whether officers, board members, directors, or senior management deliberately acted
17 or failed to act in a manner that impacted negatively on the value or purchase price, [or employee](#)
18 [terms or conditions of employment](#);
- 19 (24) Whether the formula used in determining the value of the existing hospital was
20 appropriate and reasonable which may include, but not be limited to, factors such as: the multiple
21 factor applied to the "EBITDA" -- earnings before interest, taxes, depreciation, and amortization;
22 the time period of the evaluation; price/earnings multiples; the projected efficiency differences
23 between the existing hospital and the new hospital; and the historic value of any tax exemptions
24 granted to the existing hospital;
- 25 (25) Whether the proposed conversion appropriately provides for the disposition of
26 proceeds of the conversion that may include, but not be limited to:
- 27 (i) Whether an existing entity or a new entity will receive the proceeds;
- 28 (ii) Whether appropriate tax status implications of the entity receiving the proceeds have
29 been considered;
- 30 (iii) Whether the mission statement and program agenda will be or should be closely related
31 with the purposes of the mission of the existing hospital;
- 32 (iv) Whether any conflicts of interest arise in the proposed handling of the conversion's
33 proceeds;
- 34 (v) Whether the bylaws and articles of incorporation have been prepared for the new entity;

1 (vi) Whether the board of any new or continuing entity will be independent from the new
2 hospital;

3 (vii) Whether the method for selecting board members, staff, and consultants is
4 appropriate;

5 (viii) Whether the board will comprise an appropriate number of individuals with
6 experience in pertinent areas such as foundations, health care, business, labor, community
7 programs, financial management, legal, accounting, grant making, and public members
8 representing diverse ethnic populations and the interests of the affected community; and

9 (ix) Whether the size of the board and proposed length of board terms are sufficient;

10 (26) Whether the transacting parties are in compliance with the Charitable Trust Act,
11 chapter 9 of title 18;

12 (27) Whether a right of first refusal to repurchase the assets has been retained;

13 (28) Whether the character, commitment, competence, and standing in the community, or
14 any other communities served by the transacting parties, are satisfactory, [failure to fully disclose,](#)
15 [or intentional obfuscation, misrepresentation, omission or withholding of relevant information from](#)
16 [state regulators, or failure to otherwise cooperate with state regulators during the regulatory review](#)
17 [process, shall disqualify the applicant\(s\) from consideration, resulting in the summary rejection of](#)
18 [the application under review. Such rejection shall act as a bar against the submission of future](#)
19 [applications for a period of five \(5\) years;](#)

20 (29) Whether a control premium is an appropriate component of the proposed conversion;

21 (30) Whether the value of assets factored in the conversion is based on past performance
22 or future potential performance; and

23 (31) Whether the proposed conversion is proper under chapter 36 of title 6 ("Rhode Island
24 Antitrust Act").

25

26 **23-17.14-8. Review process and review criteria by department of health for**
27 **conversions involving for-profit corporation as acquiror.**

28 (a) The department shall review all proposed conversions involving a hospital in which one
29 or more of the transacting parties involves a for-profit corporation as the acquiror and a not-for-
30 profit corporation as the acquiree.

31 (b) In reviewing an application for a conversion involving hospitals in which one or more
32 of the transacting parties is a for-profit corporation as the acquiror the department shall consider
33 the following criteria:

34 (1) Whether the character, commitment, competence, and standing in the community, or

1 any other communities served by the proposed transacting parties, are satisfactory, [failure to fully](#)
2 [disclose, or intentional obfuscation, misrepresentation, omission or withholding of relevant](#)
3 [information from state regulators, or failure to otherwise cooperate with state regulators during the](#)
4 [regulatory review process, shall disqualify the applicant\(s\) from consideration, resulting in the](#)
5 [summary rejection of the application under review. Such rejection shall act as a bar against the](#)
6 [submission of future applications for a period of five \(5\) years;](#)

7 (2) Whether sufficient safeguards are included to assure the affected community continued
8 access to affordable care;

9 (3) Whether the transacting parties have provided clear and convincing evidence that the
10 new hospital will provide health care and appropriate access with respect to traditionally
11 underserved populations in the affected community;

12 (4) Whether procedures or safeguards are assured to insure that ownership interests will
13 not be used as incentives for hospital employees or physicians to refer patients to the hospital;

14 (5) Whether the transacting parties have made a commitment to assure the continuation of
15 collective bargaining rights, if applicable, [the continuation of current employee retirement, medical,](#)
16 [dental and paid time off benefits, the continuation of current employee wages and hours of work,](#)
17 and retention of the workforce;

18 (6) Whether the transacting parties have appropriately accounted for employment needs at
19 the facility and addressed workforce retraining needed as a consequence of any proposed
20 restructuring;

21 (7) Whether the conversion demonstrates that the public interest will be served considering
22 the essential medical services needed to provide safe and adequate treatment, appropriate access
23 and balanced health care delivery to the residents of the state; and

24 (8) Whether the acquiror has demonstrated that it has satisfactorily met the terms and
25 conditions of approval for any previous conversion pursuant to an application submitted under §
26 23-17.14-6.

27 **23-17.14-11. Criteria for the department of health -- Conversions limited to not-for-**
28 **profit corporations.**

29 In reviewing an application of a conversion involving a hospital in which the transacting
30 parties are limited to not-for-profit corporations, the department shall consider the following
31 criteria:

32 (1) Whether the character, commitment, competence, and standing in the community, or
33 any other communities served by the proposed transacting parties are satisfactory, [failure to fully](#)
34 [disclose, or intentional obfuscation, misrepresentation, omission or withholding of relevant](#)

1 [information from state regulators, or failure to otherwise cooperate with state regulators during the](#)
2 [regulatory review process, shall disqualify the applicant\(s\) from consideration, resulting in the](#)
3 [summary rejection of the application under review. Such rejection shall act as a bar against the](#)
4 [submission of future applications for a period of five \(5\) years;](#)

5 (2) Whether sufficient safeguards are included to assure the affected community continued
6 access to affordable care;

7 (3) Whether the transacting parties have provided ~~satisfactory~~ [clear and convincing](#)
8 evidence that the new hospital will provide health care and appropriate access with respect to
9 traditionally underserved populations in the affected community;

10 (4) Whether procedures or safeguards are assured to insure that ownership interests will
11 not be used as incentives for hospital employees or physicians to refer patients to the hospital;

12 (5) Whether the transacting parties have made a commitment to assure the continuation of
13 collective bargaining rights, if applicable, [the continuation of current employee retirement, medical,](#)
14 [dental and paid time off benefits, the continuation of current employee wages and hours of work,](#)
15 and retention of the workforce;

16 (6) Whether the transacting parties have appropriately accounted for employment needs at
17 the facility and addressed workforce retraining needed as a consequence of any proposed
18 restructuring;

19 (7) Whether the conversion demonstrates that the public interest will be served considering
20 the essential medical services needed to provide safe and adequate treatment, appropriate access
21 and balanced health care delivery to the residents of the state.

22 **23-17.14-12.1. Expedited review for unaffiliated community hospitals or not-for-**
23 **profit hospitals.**

24 (a) Notwithstanding §§ 23-17.14-6(a) and 23-17.14-10 of this chapter, if a proposed
25 conversion involves: (1) Two (2) or more hospitals that are not in common control with another
26 hospital; or (2) One hospital not under common control with another hospital and a hospital system
27 parent corporation; or (3) Two (2) affiliated hospitals the conversion of which was previously
28 approved in accordance with chapter 17.14 of title 23 and another hospital or hospital system parent
29 corporation, ~~or (4) One or more hospital(s) that are determined to be distressed as under subsection~~
30 ~~(a)(2) of this section, including hospitals that are part of a not for profit hospital system parent~~
31 ~~corporation, as acquiree,~~ such conversion will be reviewed under an expedited review process
32 conducted solely by the department of health (without derogation of the authority of the attorney
33 general in accordance with § 23-17.14-21), only if the acquiree and acquiror are both nonprofit
34 corporations exempt from taxation under section 501(a) of the United States Internal Revenue

1 Service Code as organizations described in section 501(c)(3) of such code, or any successor
2 provisions, and:

3 (1) The acquiree and acquiror are both nonprofit corporations that have directly or
4 indirectly continuously operated at least one licensed hospital ~~either in Rhode Island or in another~~
5 ~~jurisdiction either on its own or it is part of a health care system that has operated for at least the~~
6 ~~preceding three (3) years~~ for at least the preceding three (3) years; and

7 (2) The acquiree operates ~~one or more a~~ distressed Rhode Island ~~hospitals~~ hospital facing
8 significant financial hardship that may impair its ~~or their~~ ability to continue to operate effectively
9 without the proposed conversion and ~~have~~ has been determined to be distressed by the director of
10 health based upon whether the ~~hospital(s)~~ hospital meets one or more of the following criteria:

11 (i) Operating loss for the two (2) most recently completed fiscal years;

12 (ii) Less than fifty (50) days cash-on-hand;

13 (iii) Current asset to liability ratio of less than one point five (1.5);

14 (iv) Long-term debt to capitalization greater than seventy-five percent (75%);

15 (v) Inpatient occupancy rate of less than fifty percent (50%);

16 (vi) Would be classified as below investment grade by a major rating agency.

17 (b) The transacting parties shall file an initial application pursuant to this section that shall
18 include ~~the following the same~~ information as required pursuant to § 23-17.14-6 with respect to
19 each transacting party and the proposed conversion:

20 (1) A detailed summary of the proposed conversion;

21 (2) Charter, articles of incorporation, or certificate of incorporation for the transacting
22 parties and their affiliated hospitals, including amendments thereto;

23 (3) Bylaws and organizational charts for the transacting parties and their affiliated
24 hospitals;

25 (4) Organizational structure for the transacting parties and each partner, affiliate, parent,
26 subsidiary, or related legal entity in which either transacting party has a twenty percent (20%) or
27 greater ownership interest or control;

28 (5) All documents, reports, meeting minutes, and presentations relevant to the transacting
29 parties' board of directors' decision to propose the conversion;

30 (6) Conflict of interest policies and procedures;

31 (7) Copies of audited income statements, balance sheets, and other financial statements for
32 the past three (3) years for the transacting parties and their affiliated hospitals where appropriate
33 and to the extent they have been made public, audited interim financial statements and income
34 statements together with detailed descriptions of the financing structure of the proposed conversion

1 including equity contribution, debt restructuring, stock issuance, and partnership interests;

2 (8) Copies of reports analyzing the proposed conversion during the past three (3) years
3 including, but not limited to, reports by appraisers, accountants, investment bankers, actuaries and
4 other experts;

5 (9) Copies of current conflict of interest forms from all incumbent or recently incumbent
6 officers, members of the board of directors or trustees and senior managers of the transacting
7 parties; "incumbent or recently incumbent" means those individuals holding the position at the time
8 the application is submitted and any individual who held a similar position within one year prior to
9 the application's acceptance;

10 (10) Copies of all documents related to: (i) Identification of all current charitable assets;
11 (ii) Accounting of all charitable assets for the past three (3) years; and (iii) Distribution of charitable
12 assets for the past three (3) years including, but not limited to, endowments, restricted, unrestricted,
13 and specific purpose funds as each relates to the proposed conversion;

14 (11) A description of the plan as to how the affiliated hospitals will provide consolidated
15 healthcare services during the first three (3) years following the conversion;

16 (12) Copies of plans for all hospital departments and services that will be eliminated or
17 significantly reduced during the first three (3) years following the conversion; and

18 (13) Copies of plans relative to staffing levels for all categories of employees during the
19 first three (3) years following the conversion.

20 (c) In reviewing an application under an expedited review process, the department shall
21 consider the criteria in § 23-17.14-11.

22 (d) Within twenty (20) working days of receipt by the department of an application
23 satisfying the requirements of subsection (b) above, the department will notify and afford the public
24 an opportunity to comment on the application.

25 (e) The decision of the department shall be rendered within ninety (90) days of acceptance
26 of the application under this section.

27 (f) Costs payable by the transacting parties under § 23-17.14-13 in connection with an
28 expedited review by the department under this section shall not exceed twenty-five thousand dollars
29 (\$25,000) per one hundred million dollars (\$100,000,000) of total net patient service revenue of
30 the acquiree and acquiror in the most recent fiscal year for which audited financial statements are
31 available.

32 (g) Following a conversion, the new hospital shall provide on or before March 1 of each
33 calendar year a report in a form acceptable to the director containing all updated financial
34 information required to be disclosed pursuant to subsection (b)(7) of this section.

1 (h) If an expedited review is performed by the department pursuant to this section, the
2 department of attorney general shall perform a review of the proposed transaction ~~pursuant to § 23-~~
3 ~~17.14-10(b) and the criteria for conversions limited to not for profits~~ as it deems necessary,
4 including, at a minimum, its impact upon the charitable assets of the transacting parties. The
5 attorney general's review shall be done concurrently with the department of health review and shall
6 not extend the length of the review process. For this review, the department of attorney general
7 shall be entitled to costs in accordance with § 23-17.14-13 and subsection (f) of this section.

8 **23-17.14-14. Investigations -- Notice to attend -- Court order to appear -- Contempt.**

9 (a) The director or the attorney general shall conduct investigations in discharging the
10 duties required under this chapter. For purposes of this investigation, the director or the attorney
11 general may require any person, agent, trustee, fiduciary, consultant, institution, association, or
12 corporation directly related to the proposed conversion to appear at any time and place that the
13 director or the attorney general shall designate, then and there under oath and conducted with a
14 stenographic record to produce for the use of the director and/or the attorney general any and all
15 documents and any other information relating directly to the proposed conversion that the director
16 or the attorney general may require, including, but not limited to, interviews, testimony, or
17 statements.

18 (b) Whenever the director or the attorney general may require the attendance of any person
19 as provided in subsection (a), the director and/or the attorney general shall issue a notice setting the
20 time and place when the attendance is required and shall cause the notice to be delivered or sent by
21 registered or certified mail to the person at least fourteen (14) days before the date fixed in the
22 notice for the attendance.

23 (c) If any person receiving notice pursuant to this provision neglects to attend or remain in
24 attendance so long as may be necessary for the purposes that the notice was issued, or refuses to
25 produce information requested, any justice of the superior court for the county within which the
26 inquiry is carried on or within which the person resides or transacts business, upon application by
27 the director, the attorney general, or any transacting party shall have jurisdiction to hear and
28 consider on an expedited basis the request, and if appropriate and relevant to the consideration of
29 proposed conversion, may issue to the person an order requiring the person to appear before the
30 director or the attorney general there to produce for the use of the director or the attorney general
31 evidence in accordance with the terms of the order of the court, and any failure to obey the order
32 of the superior court may be punished by the court as contempt of court.

33 (d) In the event the applicant(s) fails to comply with any aspect of the review process, or
34 fails to comply with the conditions attached to a prior conversion, the application(s) shall be

1 [summarily rejected.](#)

2 **23-17.14-17. Perjury.**

3 Any person who is found to have testified falsely under oath before the legislature, the
4 department of health, or the attorney general pursuant to this chapter shall be subject to prosecution
5 for perjury and be subject to the penalties set forth in § 23-17.14-30, [and the application shall be](#)
6 [summarily rejected with the applicant being barred from participating in a hospital conversion for](#)
7 [five \(5\) years.](#)

8 **23-17.14-28. Concurrent approval -- License.**

9 (a) The director may consider the requirement of this chapter and the requirements of §§
10 23-17-1 -- 23-17-45 together upon completion of the initial application. The director may approve,
11 approve with conditions, or disapprove one or both requests filed pursuant to this chapter, including
12 expedited review under § 23-17.14-12.1, and §§ 23-17-1 -- 23-17-45. The approvals of the director
13 required by this chapter shall be subject to chapter 35 of title 42. For any conversion subject to this
14 chapter, the director may combine any hearings required by this chapter with any hearings on
15 similar or related matters required by §§ 23-17-1 -- 23-17-45 and shall consider issues of market
16 share especially as they affect quality, access, and affordability of services.

17 (b) Any approval of a conversion involving a for-profit corporation as an acquiror shall be
18 subject to any conditions as determined by the director of health, provided those conditions relate
19 to the purpose of this chapter. The conditions may include, but not be limited to, the conditions
20 contained in this subsection. In the event the director determines that one or more of the conditions
21 contained in this subsection are not appropriate or desirable in a particular conversion, the director
22 shall include the rationale for not including the condition(s) in any approval.

23 (1) Maintain a governing body for each converted hospital whose membership shall include
24 uncompensated, independent individuals who reside in Rhode Island;

25 (2) Make a financially reasonable contribution to support the state's coordinated health
26 planning process;

27 (3) Adhere to reasonable restrictions on financial incentives to patient or health plan
28 enrollees to receive hospital services outside of the state of Rhode Island;

29 (4) Keep the new hospital open and operational for a reasonable minimum period of time;

30 (5) Make a reasonable minimum investment to support primary care in the Rhode Island
31 communities served by the new hospital;

32 (6) Not enter into any contract or other service or purchasing arrangements with an
33 affiliated legal entity except for contracts or arrangements to provide services or products that are
34 reasonably necessary to accomplish the healthcare purposes of the relevant hospital and for

1 compensation that is consistent with fair-market value for the services actually rendered, or the
2 products actually provided;

3 (7) Report to the director on annual distributions of profit to owners; ~~and~~

4 (8) Require that any corporate allocation, or equivalent charge, to any affiliated
5 organization(s) in any hospital fiscal year not exceed reasonable fair-market value for the services
6 rendered or the assets purchased or leased from the affiliate-; and

7 (9) Make a reasonable minimum investment to maintain current employment levels,
8 current employee retirement, medical, dental and paid time-off benefits, current employee rates of
9 pay and hours of work.

10 (c) Any approval of a conversion involving a for-profit corporation as an acquiror shall be
11 subject to any conditions as determined by the attorney general, provided those conditions relate to
12 the purpose of this chapter. The conditions may include, but not be limited to, the acquiror's
13 adherence to a minimum investment to protect the assets, financial health, and well-being of the
14 new hospital and for community benefit. In the event the attorney general determines that the
15 conditions contained in this subsection are not appropriate or desirable in a particular conversion,
16 the attorney general shall include the rationale for not including the condition(s) in any approval.

17 (d) For a period of five (5) years following the effective date of the conversion, when
18 approval of a conversion involves either a not-for-profit or a for-profit corporation as an acquiror:

19 (1) The acquiror shall file reports with the department and the attorney general on or before
20 March 1st of each calendar year detailing compliance with the conditions in subsection (b) and any
21 other conditions on the conversion approval or license of the new hospital. Failure to comply with
22 any of the conditions or the charity care requirements contained in § 23-17.14-15 shall be cause for
23 penalties to be applied in accordance with § 23-17.14-30;

24 (2) The department of health and the department of attorney general shall monitor, assess,
25 and evaluate the acquiror's compliance with all of the conditions of approval, as well as annually
26 review the impact of the conversion on healthcare costs and services within the communities
27 served;

28 (3) The acquiror shall pay for the costs of the department of health and the department of
29 attorney general in performing the monitoring, evaluation, and assessment in an amount to be
30 determined by the attorney general or the director as they deem appropriate, which should be placed
31 in escrow during the term of the monitoring period. No application for a conversion made pursuant
32 to the requirements of this chapter shall be approved unless an agreement has been executed with
33 the attorney general and the director for the payment of reasonable costs in accordance with this
34 section; and

1 (4) The department and/or the attorney general may seek immediate relief in the superior
2 court to enforce any conditions of approval of a conversion, and may impose penalties for
3 noncompliance pursuant to § 23-17.14-30.

4 **23-17.14-30. Failure to comply -- Penalties.**

5 If any person knowingly violates or fails to comply with any provision of this chapter or
6 willingly or knowingly gives false or incorrect information:

7 (1) The director or attorney general may, after notice and opportunity for a prompt and fair
8 hearing to one or more transacting parties, deny, suspend, or revoke a license, or in lieu of
9 suspension or revocation of the license, may order the licensee to admit no additional persons to
10 the facility, to provide health services to no additional persons through the facility, or to take any
11 corrective action necessary to secure compliance under this chapter, and impose a fine of not more
12 than two million dollars (\$2,000,000); ~~and~~

13 (2) The attorney general may, after notice and opportunity for a prompt and fair hearing to
14 one or more transacting parties, take any corrective action necessary to secure compliance under
15 this chapter, and impose a fine of not more than two million dollars (\$2,000,000); ~~and~~

16 (3) Failure to fully disclose, or intentional obfuscation, misrepresentation, omission or
17 withholding of relevant information from state regulators, or failure to otherwise cooperate with
18 state regulators during the regulatory review process, shall disqualify the applicant(s) from
19 consideration, resulting in the summary rejection of the application under review. Such rejection
20 shall act as a bar against the submission of future applications for a period of five (5) years.

21 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- LICENSING OF HEALTH CARE FACILITIES --
THE HOSPITAL CONVERSION ACT

1 This act would expand the health services council within the licensing of the health care
2 facility licensing act from twelve (12) to twenty-four (24) members, and would also amend several
3 provisions relative to the review process of the hospital conversion act pertaining to maintenance
4 of services and required disclosures.

5 This act would take effect upon passage.

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