

2021 -- S 0791 SUBSTITUTE A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO HEALTH AND SAFETY - LICENSING OF HEALTH CARE FACILITIES

Introduced By: Senators Goodwin, Quezada, Bell, Mack, and Ciccone

Date Introduced: April 08, 2021

Referred To: Senate Education

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-17 of the General Laws entitled "Licensing of Healthcare
2 Facilities" is hereby amended by adding thereto the following section:

3 **23-17-4.1. Rules and regulations for school-based health centers.**

4 (a) On or before January 1, 2022, the department of health shall promulgate rules and
5 regulations for the specific licensing and operation of school-based health centers in elementary
6 and secondary schools. All school-based health centers as defined in § 23-17-2 shall be licensed
7 and operated pursuant to a school-based health center license.

8 (b) The rules and regulations promulgated by the department pursuant to the provisions of
9 this section shall include, but not be limited to, requirements for adequate and appropriate staffing
10 to include a requirement for a certified nurse-teacher to be employed and present in any elementary
11 or secondary school with a school-based health center on site and for the establishment of standards
12 of care and adequate supervision and management of staff.

13 (c) Pursuant to rules and regulations promulgated pursuant to the provisions of this section,
14 every entity applying to be licensed as a school-based health center in an elementary or secondary
15 school shall be responsible for:

16 (1) Developing and implementing a staffing/personnel plan that includes the school's
17 certified nurse-teacher as a primary source of patient referrals, and articulates the role of the
18 certified nurse-teacher in student and family communication, care coordination and delivery of
19 services to students; and

1 (2) Submitting for review by the department of health, any written agreements, memoranda
2 of understanding and/or other terms and conditions agreed to between the health care facility or the
3 entity operating the health care facility and the school district and/or collective bargaining agent.

4 (d) If the department fails to promulgate rules and regulations pursuant to the provisions
5 of this section on or before January 1, 2022, then no health care facility in an elementary or
6 secondary school shall operate or continue to operate after January 1, 2022, until rules and
7 regulations are promulgated pursuant to the provisions of this section.

8 SECTION 2. Section 23-17-2 of the General Laws in Chapter 23-17 entitled "Licensing of
9 Healthcare Facilities" is hereby amended to read as follows:

10 **23-17-2. Definitions.**

11 As used in this chapter:

12 (1) "Affiliate" means a legal entity that is in control of, is controlled by, or is in common
13 control with another legal entity.

14 (2) "Alzheimer's dementia special-care unit or program" means a distinct living
15 environment within a nursing facility that has been physically adapted to accommodate the
16 particular needs and behaviors of those with dementia. The unit provides increased staffing;
17 therapeutic activities designed specifically for those with dementia; and trains its staff on an
18 ongoing basis on the effective management of the physical and behavioral problems of those with
19 dementia. The residents of the unit/program have had a standard, medical-diagnostic evaluation
20 and have been determined to have a diagnosis of Alzheimer's dementia or another dementia.

21 (3) "Certified nurse-teacher" means those personnel certified by the department of
22 elementary and secondary education and employed pursuant to the provisions of §§ 16-21-7 and
23 16-21-8.

24 ~~(3)~~(4)(i) "Change in operator" means a transfer by the governing body or operator of a
25 healthcare facility to any other person (excluding delegations of authority to the medical or
26 administrative staff of the facility) of the governing body's authority to:

27 (A) Hire or fire the chief executive officer of the healthcare facility;

28 (B) Maintain and control the books and records of the healthcare facility;

29 (C) Dispose of assets and incur liabilities on behalf of the healthcare facility; or

30 (D) Adopt and enforce policies regarding operation of the healthcare facility.

31 (ii) This definition is not applicable to circumstances wherein the governing body of a
32 healthcare facility retains the immediate authority and jurisdiction over the activities enumerated
33 in subdivisions (3)(i)(A) -- (3)(i)(D).

34 ~~(4)~~(5) "Change in owner" means:

1 (i) In the case of a healthcare facility that is a partnership, the removal, addition, or
2 substitution of a partner that results in a new partner acquiring a controlling interest in the
3 partnership;

4 (ii) In the case of a healthcare facility that is an unincorporated, solo proprietorship, the
5 transfer of the title and property to another person;

6 (iii) In the case of a healthcare facility that is a corporation:

7 (A) A sale, lease exchange, or other disposition of all, or substantially all, of the property
8 and assets of the corporation; or

9 (B) A merger of the corporation into another corporation; or

10 (C) The consolidation of two (2) or more corporations, resulting in the creation of a new
11 corporation; or

12 (D) In the case of a healthcare facility that is a business corporation, any transfer of
13 corporate stock that results in a new person acquiring a controlling interest in the corporation; or

14 (E) In the case of a healthcare facility that is a nonbusiness corporation, any change in
15 membership that results in a new person acquiring a controlling vote in the corporation.

16 ~~(5)~~(6) "Clinician" means a physician licensed under chapter 37 of title 5; a nurse licensed
17 under chapter 34 of title 5; a psychologist licensed under chapter 44 of title 5; a social worker
18 licensed under chapter 39.1 of title 5; a physical therapist licensed under chapter 40 of title 5; and
19 a speech language pathologist or audiologist licensed under chapter 48 of title 5.

20 ~~(6)~~(7) "Director" means the director of the Rhode Island state department of health.

21 ~~(7)~~(8) "Freestanding emergency-care facility" means an establishment, place, or facility
22 that may be a public or private organization, structurally distinct and separate from a hospital;
23 staffed, equipped, and operated to provide prompt, emergency medical care. For the purposes of
24 this chapter, "emergency medical care" means services provided for a medical condition or
25 behavioral-health condition that is manifested by symptoms of sufficient severity that, in the
26 absence of immediate medical attention, could result in harm to the person or others; serious
27 impairment to bodily functions; serious dysfunction of any bodily organ or part; or development or
28 continuance of severe pain.

29 ~~(8)~~(9) "Healthcare facility" means any institutional health-service provider, facility, or
30 institution, place, building, agency, or portion thereof, whether a partnership or corporation,
31 whether public or private, whether organized for profit or not, used, operated, or engaged in
32 providing healthcare services, including, but not limited to: hospitals; nursing facilities; home
33 nursing-care provider (which shall include skilled nursing services and may also include activities
34 allowed as a home-care provider or as a nursing service agency); home-care provider (which may

1 include services such as personal care or homemaker services); rehabilitation centers; kidney
2 disease treatment centers; health maintenance organizations; freestanding emergency-care facilities
3 as defined in this section, and facilities providing surgical treatment to patients not requiring
4 hospitalization (surgi-centers); hospice care, and physician ambulatory-surgery centers and
5 podiatry ambulatory-surgery centers providing surgical treatment. The term "health-care facility"
6 also includes organized ambulatory-care facilities that are not part of a hospital but that are
7 organized and operated to provide healthcare services to outpatients, such as: central-services
8 facilities serving more than one healthcare facility or healthcare provider; treatment centers;
9 diagnostic centers; outpatient clinics; infirmaries and health centers; school-based health centers,
10 and neighborhood health centers. The term "healthcare facility" also includes a mobile, health-
11 screening vehicle as defined in this section. The term "healthcare facility" shall not apply to
12 organized, ambulatory-care facilities owned and operated by professional service corporations as
13 defined in chapter 5.1 of title 7, as amended (the "professional service corporation law"), or to a
14 practitioner's (physician, dentist, or other healthcare provider) office or group of practitioners'
15 offices (whether owned and/or operated by a hospital or an affiliate of a hospital or an individual
16 practitioner, alone or as a member of a partnership, professional service corporation, organization,
17 or association); provided, however, notwithstanding any other provision herein or in the general
18 laws, any hospital or any affiliate of a hospital that owns and/or operates a practitioner's office shall
19 ensure that such practitioner's office complies with licensing or accreditation requirements that may
20 be applicable to the practitioner's office. Individual categories of healthcare facilities shall be
21 defined in rules and regulations promulgated by the licensing agency with the advice of the health
22 services council. Rules and regulations concerning hospice care shall be promulgated with regard
23 to the "Standards of a Hospice Program of Care," promulgated by the National Hospice
24 Organization. Any provider of hospice care who provides hospice care without charge shall be
25 exempt from the licensing provisions of this chapter but shall meet the "Standards of a Hospice
26 Program of Care." Facilities licensed by the department of behavioral healthcare, developmental
27 disabilities and hospitals and the department of human services, and clinical laboratories licensed
28 in accordance with chapter 16.2 of this title, as well as Christian Science institutions (also known
29 as Christian Science Nursing Facilities) listed and certified by the Commission for Accreditation
30 of Christian Science Nursing Organizations/Facilities, Inc. shall not be considered health-care
31 facilities for purposes of this chapter.

32 ~~(9)~~(10) "Homemaker," or however else called, means a trained, non-professional worker
33 who performs related housekeeping services in the home for the sick, disabled, dependent, or
34 infirm, and as further defined by regulation; the director shall establish criteria for training.

1 ~~(10)~~(11) "Hospital" means a person or governmental entity licensed in accordance with this
2 chapter to establish, maintain, and operate a hospital.

3 ~~(11)~~(12) "Licensing agency" means the Rhode Island state department of health.

4 ~~(12)~~(13) "Medical services" means any professional services and supplies rendered by, or
5 under the direction of, persons duly licensed under the laws of this state to practice medicine,
6 surgery, or podiatry that may be specified by any medical service plan. Medical service shall not
7 be construed to include hospital services.

8 ~~(13)~~(14) "Mobile, health-screening vehicle" means a mobile vehicle, van, or trailer that
9 delivers primary and preventive healthcare screening services, and:

10 (i) Does not maintain active contracts or arrangements with any health insurer subject to
11 regulation under chapter 20 or 42 of title 27;

12 (ii) Does not maintain active contracts or arrangements with another licensed healthcare
13 facility as that term is defined within this section; and

14 (iii) Does not provide medical services free of charge.

15 ~~(14)~~(15) "Non-English speaker" means a person who cannot speak or understand, or has
16 difficulty in speaking or understanding, the English language, because he/she uses only, or
17 primarily, a spoken language other than English, and/or a person who uses a sign language and
18 requires the use of a sign-language interpreter to facilitate communication.

19 ~~(15)~~(16) "Person" means any individual, trust or estate, partnership, corporation (including
20 associations, joint stock companies, and insurance companies), state, or political subdivision or
21 instrumentality of a state.

22 ~~(16)~~(17) "Physician ambulatory-surgery center" means an office, or portion of an office,
23 that is utilized for the purpose of furnishing surgical services to the owner and/or operator's own
24 patients on an ambulatory basis, and shall include both single-practice, physician ambulatory-
25 surgery centers and multi-practice, physician ambulatory-surgery centers. A "single-practice,
26 physician ambulatory-surgery center" is a physician ambulatory center owned and/or operated by
27 a physician-controlled professional service corporation as defined in chapter 5.1 of title 7 (the
28 "professional service corporation law"), or a physician-controlled limited-liability company (as
29 defined in chapter 16 of title 7 (the "limited liability company act")) in which no physician is an
30 officer, shareholder, director, or employee of any other corporation engaged in the practice of the
31 same profession, or a private physician's office (whether owned and/or operated by an individual
32 practitioner, alone or as a member of a partnership, professional service corporation, limited-
33 liability company, organization, or association). A "multi-practice, physician ambulatory-surgery
34 center" is a physician ambulatory-surgery center owned and/or operated by a physician-controlled

1 professional service corporation (as defined in the professional service corporation law) or a
2 physician-controlled limited-liability company (as defined in the limited liability company act) in
3 which a physician is also an officer, shareholder, director, or employee of another corporation
4 engaged in the practice of the same profession, or a group of physicians' offices (whether owned
5 and/or operated by an individual practitioner, alone or as a member of a partnership, professional
6 service corporation, limited-liability company, organization, or association).

7 ~~(17)~~(18) "Podiatry ambulatory-surgery center" means an office or portion of an office that
8 is utilized for the purpose of furnishing surgical services to the owner and/or operator's own patients
9 on an ambulatory basis, and shall include both single-practice, podiatry ambulatory-surgery centers
10 and multi-practice podiatry ambulatory-surgery centers. A "single-practice podiatry ambulatory-
11 surgery center" is a podiatry ambulatory center owned and/or operated by a podiatrist-controlled
12 professional service corporation (as defined in chapter 5.1 of title 7 (the "professional service
13 corporation law")), or a podiatrist-controlled limited-liability company (as defined in chapter 16 of
14 title 7 (the "limited liability company act")) in which no podiatrist is an officer, shareholder,
15 director, or employee of any other corporation engaged in the practice of the same profession, or
16 a private podiatrist's office (whether owned and/or operated by an individual practitioner, alone or
17 as a member of a partnership, professional service corporation, limited-liability company,
18 organization, or association). A "multi-practice, podiatry ambulatory-surgery center" is a podiatry
19 ambulatory-surgery center owned and/or operated by a podiatry-controlled professional service
20 corporation (as defined in the professional service corporation law) or a podiatry-controlled,
21 limited-liability company (as defined in the limited liability company act) in which a podiatrist is
22 also an officer, shareholder, director, or employee of another corporation engaged in the practice
23 of the same profession, or a group of podiatrists' offices (whether owned and/or operated by a an
24 individual practitioner, alone or as a member of a partnership, professional service corporation,
25 limited-liability company, organization, or association).

26 ~~(18)~~(19) "Qualified interpreter" means a person who, through experience and/or training,
27 is able to translate a particular foreign language into English, with the exception of sign-language
28 interpreters who must be licensed in accordance with chapter 71 of title 5.

29 ~~(19)~~(20) "Qualified sign-language interpreter" means one who has been licensed in
30 accordance with the provisions of chapter 71 of title 5.

31 ~~(20)~~(21) "School-based health center" means a facility located in an elementary or
32 secondary school [licensed as a school-based health center](#) that delivers primary and/or preventive
33 healthcare services [to individuals to include, but not be limited to,](#) ~~to~~ students on site.

34 SECTION 3. Sections 16-21-7 and 16-21-8 of the General Laws in Chapter 16-21 entitled

1 "Health and Safety of Pupils" are hereby amended to read as follows:

2 **16-21-7. School health.**

3 (a) All schools that are approved for the purpose of §§ 16-19-1 and 16-19-2 shall have a
4 school health program that shall be approved by the state director of the department of health and
5 the commissioner of elementary and secondary education or the commissioner of higher education,
6 as appropriate. The program shall provide for the organized direction and supervision of a healthful
7 school environment, health education, and services. The program shall include and provide, ~~within~~
8 ~~and consistent with existing school facilities,~~ for the administration of nursing care by certified
9 nurse teachers, as defined in § 16-21-8, as shall be requested, in writing, by the attending physician
10 of any student and authorized, in writing, by the parent or legal guardian of the student. No
11 instruction in the characteristics, symptoms, and the treatment of disease shall be given to any child
12 whose parent or guardian shall present a written statement signed by them stating that the
13 instructions should not be given the child because of religious beliefs.

14 (b) [Deleted by P.L. 2016, ch. 529, § 1].

15 (c) All Rhode Island elementary, middle, and high schools that sell or distribute
16 competitive foods and beverages on the school campus during the school day shall be required to
17 offer only healthy foods and beverages as set forth by the United States Department of Agriculture
18 under the Healthy, Hunger-Free Kids Act of 2010, Pub. L. No. 111-296, 42 U.S.C. § 1758 et seq.,
19 and federal regulations implementing the act promulgated pursuant to the provisions of 42 U.S.C.
20 § 1779(b). Provided, the Rhode Island board of education or local school committees may adopt
21 more restrictive policies than the ones referenced herein.

22 (d) Schools may permit the sale of beverages and snacks that do not comply with subsection
23 (c) as part of school fundraising in any of the following circumstances:

24 (1) The sale of those items takes place off and away from the school campus.

25 (2) The sale of those items takes place after the end of the school day as defined in
26 subsection (g).

27 (3) Career and technical schools with culinary arts or food-service programs may request
28 an exemption from the department of elementary and secondary education to enable the limited
29 sale of non-compliant snacks and beverages that have been prepared by culinary students as part of
30 their curriculum. No specially exempted fundraiser foods or beverages may be sold in competition
31 with school meals during the meal service.

32 (e) The department of elementary and secondary education shall post on its website
33 resources to assist school districts with implementation of this section.

34 (f) The department of elementary and secondary education shall develop a process to

1 monitor compliance with this section.

2 (g) Definitions. As used in this section:

3 (1) "Competitive foods" means all foods and beverages, other than meals reimbursed under
4 the Richard B. Russell National School Lunch Act (42 U.S.C. § 1751 et seq.) and the Child
5 Nutrition Act of 1966 (42 U.S.C. § 1771 et seq.), available for sale to students on the school campus
6 during the school day.

7 (2) "School campus" means all areas of the property under the jurisdiction of the school
8 that are accessible to students during the school day.

9 (3) "School day" means the period from midnight before, to sixty (60) minutes after, the
10 end of the official school day.

11 (h) The standards set forth and referenced in this section shall apply throughout the entire
12 school campus, including, but not limited to, a la carte food sale, school stores, vending machines,
13 and fundraisers held during the school day.

14 **16-21-8. Certified nurse-teacher.**

15 (a) Each ~~school system~~ elementary or secondary school with a school-based health center
16 on site shall employ or have on staff certified nurse-teacher personnel certified by the state
17 department of elementary and secondary education; ~~provided, however, that this section shall not~~
18 ~~apply to those school districts which are currently allowed to share certified nurse-teacher personnel~~
19 ~~by the department of elementary and secondary education to be on site and/or available for~~
20 consultation, at a minimum, during the school-based health center hours of operation. The school
21 health program as defined in § 16-21-7 shall only be staffed by certified personnel.

22 (b) If a school district has no health care facility operating in any elementary or secondary
23 school, then the school district shall employ a minimum of one certified nurse-teacher for the school
24 district; provided, however, that this subsection shall not apply to those school districts which are
25 currently allowed to share certified nurse-teacher personnel by the department of elementary and
26 secondary education.

27 SECTION 4. 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

1 This act would require the department of health to promulgate rules and regulations by
2 January 1, 2022 for the licensing and operation of school-based health centers operating in
3 elementary and secondary schools. The act further provides that school-based health centers in
4 elementary and secondary schools employ a certified nurse-teacher.

5 This act would take effect upon passage.

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