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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO HEALTH AND SAFETY - DETERMINATION OF NEED FOR NEW
HEALTHCARE EQUIPMENT AND SERVICES

Introduced By: Representatives Tomasso, Silva, Naughton, Shekarchi, and Abney

Date Introduced: May 08, 2014

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-15-2 of the General Laws in Chapter 23-15 entitled
2 "Determination of Need for New Health Care Equipment and New Institutional Health Services"
3 is hereby amended to read as follows:

4 **23-15-2. Definitions.** -- As used in this chapter:

5 (1) "Affected person" means and includes the person whose proposal is being reviewed,
6 or the applicant, health care facilities located within the state which provide institutional health
7 services, the state medical society, the state osteopathic society, those voluntary nonprofit area-
8 wide planning agencies that may be established in the state, the state budget office, the office of
9 health insurance commissioner, any hospital or medical service corporation organized under the
10 laws of the state, the statewide health coordinating council, contiguous health systems agencies,
11 and those members of the public who are to be served by the proposed new institutional health
12 services or new health care equipment.

13 (2) "Cost impact analysis" means a written analysis of the effect that a proposal to offer
14 or develop new institutional health services or new health care equipment, if approved, will have
15 on health care costs and shall include any detail that may be prescribed by the state agency in
16 rules and regulations.

17 (3) "Director" means the director of the Rhode Island state department of health.

18 (4) (i) "Health care facility" means any institutional health service provider, facility or

1 institution, place, building, agency, or portion of them, whether a partnership or corporation,
2 whether public or private, whether organized for profit or not, used, operated, or engaged in
3 providing health care services, which are limited to hospitals, nursing facilities, home nursing
4 care provider, ~~home care provider~~, hospice provider, inpatient rehabilitation centers (including
5 drug and/or alcohol abuse treatment centers), certain facilities providing surgical treatment to
6 patients not requiring hospitalization (surgi-centers, multi-practice physician ambulatory surgery
7 centers and multi-practice podiatry ambulatory surgery centers) and facilities providing inpatient
8 hospice care. Single-practice physician or podiatry ambulatory surgery centers (as defined in
9 subdivisions 23-17-2(13) and 23-17-2(14), respectively) are exempt from the requirements of
10 chapter 15 of this title; provided, however, that such exemption shall not apply if a single-
11 practice physician or podiatry ambulatory surgery center is established by a medical practice
12 group (as defined in section 5-37-1) within two (2) years following the formation of such
13 medical practice group, when such medical practice group is formed by the merger or
14 consolidation of two (2) or more medical practice groups or the acquisition of one medical
15 practice group by another medical practice group. The term "health care facility" does not include
16 Christian Science institutions (also known as Christian Science nursing facilities) listed and
17 certified by the Commission for Accreditation of Christian Science Nursing
18 Organizations/Facilities, Inc.

19 (ii) Any provider of hospice care who provides hospice care without charge shall be
20 exempt from the provisions of this chapter.

21 (5) "Health care provider" means a person who is a direct provider of health care
22 services (including but not limited to physicians, dentists, nurses, podiatrists, physician assistants,
23 or nurse practitioners) in that the person's primary current activity is the provision of health care
24 services for persons.

25 (6) "Health services" means organized program components for preventive, assessment,
26 maintenance, diagnostic, treatment, and rehabilitative services provided in a health care facility.

27 (7) "Health services council" means the advisory body to the Rhode Island state
28 department of health established in accordance with chapter 17 of this title, appointed and
29 empowered as provided to serve as the advisory body to the state agency in its review functions
30 under this chapter.

31 (8) "Institutional health services" means health services provided in or through health
32 care facilities and includes the entities in or through which the services are provided.

33 (9) "New health care equipment" means any single piece of medical equipment (and any
34 components which constitute operational components of the piece of medical equipment)

1 proposed to be utilized in conjunction with the provision of services to patients or the public, the
2 capital costs of which would exceed two million two hundred fifty thousand dollars (\$2,250,000);
3 provided, however, that the state agency shall exempt from review any application which
4 proposes one for one equipment replacement as defined in regulation. Further, beginning July 1,
5 2012 and each July thereafter the amount shall be adjusted by the percentage of increase in the
6 consumer price index for all urban consumers (CPI-U) as published by the United States
7 department of labor statistics as of September 30 of the prior calendar year.

8 (10) "New institutional health services" means and includes:

9 (i) Construction, development, or other establishment of a new health care facility.

10 (ii) Any expenditure except acquisitions of an existing health care facility which will not
11 result in a change in the services or bed capacity of the health care facility by or on behalf of an
12 existing health care facility in excess of five million two hundred fifty thousand dollars
13 (\$5,250,000) which is a capital expenditure including expenditures for predevelopment activities;
14 provided further, beginning July 1, 2012 and each July thereafter the amount shall be adjusted by
15 the percentage of increase in the consumer price index for all urban consumers (CPI-U) as
16 published by the United States department of labor statistics as of September 30 of the prior
17 calendar year.

18 (iii) Where a person makes an acquisition by or on behalf of a health care facility or
19 health maintenance organization under lease or comparable arrangement or through donation,
20 which would have required review if the acquisition had been by purchase, the acquisition shall
21 be deemed a capital expenditure subject to review.

22 (iv) Any capital expenditure which results in the addition of a health service or which
23 changes the bed capacity of a health care facility with respect to which the expenditure is made,
24 except that the state agency may exempt from review by rules and regulations promulgated for
25 this chapter any bed reclassifications made to licensed nursing facilities and annual increases in
26 licensed bed capacities of nursing facilities that do not exceed the greater of ten (10) beds or ten
27 percent (10%) of facility licensed bed capacity and for which the related capital expenditure does
28 not exceed two million dollars (\$2,000,000).

29 (v) Any health service proposed to be offered to patients or the public by a health care
30 facility which was not offered on a regular basis in or through the facility within the twelve (12)
31 month period prior to the time the service would be offered, and which increases operating
32 expenses by more than one million five hundred thousand dollars (\$1,500,000), except that the
33 state agency may exempt from review by rules and regulations promulgated for this chapter any
34 health service involving reclassification of bed capacity made to licensed nursing facilities.

1 Further beginning July 1, 2012 and each July thereafter the amount shall be adjusted by the
2 percentage of increase in the consumer price index for all urban consumers (CPI-U) as published
3 by the United States department of labor statistics as of September 30 of the prior calendar year.

4 (vi) Any new or expanded tertiary or specialty care service, regardless of capital expense
5 or operating expense, as defined by and listed in regulation, the list not to exceed a total of twelve
6 (12) categories of services at any one time and shall include full body magnetic resonance
7 imaging and computerized axial tomography; provided, however, that the state agency shall
8 exempt from review any application which proposes one for one equipment replacement as
9 defined by and listed in regulation. Acquisition of full body magnetic resonance imaging and
10 computerized axial tomography shall not require a certificate of need review and approval by the
11 state agency if satisfactory evidence is provided to the state agency that it was acquired for under
12 one million dollars (\$1,000,000) on or before January 1, 2010 and was in operation on or before
13 July 1, 2010.

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

17 (12) "Predevelopment activities" means expenditures for architectural designs, plans,
18 working drawings and specifications, site acquisition, professional consultations, preliminary
19 plans, studies, and surveys made in preparation for the offering of a new institutional health
20 service.

21 (13) "State agency" means the Rhode Island state department of health.

22 (14) "To develop" means to undertake those activities which, on their completion, will
23 result in the offering of a new institutional health service or new health care equipment or the
24 incurring of a financial obligation, in relation to the offering of that service.

25 (15) "To offer" means to hold oneself out as capable of providing, or as having the
26 means for the provision of, specified health services or health care equipment.

27 SECTION 2. 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 - DETERMINATION OF NEED FOR NEW
HEALTHCARE EQUIPMENT AND SERVICES

1 This act would remove home care providers from the requirement of a certificate of need
2 review prior to expansion of services contained in the determination of need for new healthcare
3 equipment and services act.

4 This act would take effect upon passage.

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