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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

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

Introduced By: Representatives Shekarchi, Solomon, Cassar, and Marszalkowski

Date Introduced: February 27, 2019

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.**

5 As used in this chapter:

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

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

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

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

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

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

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

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

33 (8) "Institutional health services" means health services provided in or through health-
34 care facilities and includes the entities in or through that the services are provided.

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

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

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

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

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

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

31 (v) Any health service proposed to be offered to patients or the public by a health-care
32 facility that was not offered on a regular basis in or through the facility within the twelve-month
33 (12) period prior to the time the service would be offered, and that increases operating expenses
34 by more than one million five hundred thousand dollars (\$1,500,000), except that the state agency

1 may exempt from review, by rules and regulations promulgated for this chapter, any health
2 service involving reclassification of bed capacity made to licensed nursing facilities. Further,
3 beginning July 1, 2012, and each July thereafter, the amount shall be adjusted by the percentage
4 of increase in the consumer price index for all urban consumers (CPI-U) as published by the
5 United States Department of Labor Statistics as of September 30 of the prior calendar year.

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

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

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

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

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

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

29 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
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1 This act would exempt both single entity and multiple entity physician-owned
2 ambulatory surgical centers from the certificate of need (CON) requirements and treat them as an
3 extension of the physicians' practice governed by the department of health (DOH).

4 This act would take effect upon passage.

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