

2016 -- S 2457

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LC004872
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO HEALTH AND SAFETY -- LICENSING OF HEALTH CARE FACILITIES

Introduced By: Senators Lynch Prata, and Doyle

Date Introduced: February 11, 2016

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17-44 of the General Laws in Chapter 23-17 entitled "Licensing
2 of Health Care Facilities" is hereby amended to read as follows:

3 **23-17-44. Moratorium on new initial nursing facility licensed beds and on increases**
4 **to the licensed capacity of existing nursing facility licenses.** -- (a) The licensing agency shall
5 issue no new initial licenses for nursing facilities prior to July 1, ~~2016~~ 2019; provided, however,
6 that any person holding a nursing facility license may undertake activities to construct and
7 operate a replacement nursing facility with the same or lower bed capacity as is presently licensed
8 provided that the replacement facility may only be licensed upon the otherwise unconditional
9 cessation of operation of the previously licensed nursing facility;

10 (b) Prior to July 1, ~~2016~~ 2019 and with the exception of the culture initiative pursuant to
11 § 23-17-44(3), the licensing agency shall not increase the licensed bed capacity of any existing
12 licensed nursing facility, including any nursing facility approved for change in ownership
13 pursuant to §§ 23-17-14.3 and 23-17-14.4, to greater than the level of the facility's licensed bed
14 capacity as of August 21, 1996 plus the greater of ten (10) beds or ten percent (10%) of the
15 licensed bed capacity. Any person holding a previously issued and valid certificate of need as of
16 the date of passage of this section or who shall subsequently be granted a certificate of need
17 pursuant to subsection (a) shall be permitted to effect a prior certificate from the licensing agency
18 consistent with any other statutory and regulatory provisions which may further apply.

19 (c) Notwithstanding any other provision of the law to the contrary, including any

1 moratorium on increasing bed capacity in nursing facilities that may otherwise apply, a nursing
2 facility may take out of service any or all beds of its licensed capacity without impediment to its
3 right to place back into service those beds at a future date under the same terms and conditions as
4 applied at the time of taking them out of service.

5 (d) Culture change initiative. - Notwithstanding any other provision of the law to the
6 contrary, including any moratorium on increasing bed capacity in nursing facilities that may
7 otherwise apply, the licensing agency may increase the licensed bed capacity of any existing
8 licensed nursing facility, including any nursing facility approved for change in ownership
9 pursuant to §§ 23-17-14.3 and 23-17-14.4, for the purposes of nursing facility culture change, in
10 accordance with the following criteria and procedures:

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

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

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

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

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

31 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 -- LICENSING OF HEALTH CARE FACILITIES

1 This act would extend the moratorium on nursing facilities and prohibit the licensing of
2 new facilities through July 1, 2019.

3 This act would take effect upon passage.

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