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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO HEALTH AND SAFETY - LICENSING OF HEALTH CARE FACILITIES

Introduced By: Senator Joshua Miller

Date Introduced: February 01, 2017

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17-28 of the General Laws in Chapter 23-17 entitled "Licensing
2 of Health-Care Facilities" is hereby amended to read as follows:

3 **23-17-28. Health care cost containment.**

4 (a) Each health care facility licensed under this chapter shall take any action consistent
5 with the continued delivery of quality health care services that it deems appropriate to reduce,
6 limit, or contain health care costs and improve the efficiency with which health care services are
7 delivered to the citizens of this state. In furtherance of these goals, health care facilities licensed
8 under this chapter may, to the extent not inconsistent with chapter 15 of this title, enter into
9 agreements with other health care facilities, associations of health care facilities, suppliers, third-
10 party payers, and/or agencies or branches of government providing, without limitation, for group
11 planning, individual or group expenditure ceilings, allocation of services and/or specialties, and
12 group purchasing and/or service sharing.

13 (b) It is the policy of this state to promote compensation arrangements between hospitals
14 and insurers that reward hospitals for improving quality and reducing costs. The state takes
15 notice of the fact that the largest hospital systems in the state each provide unique services that
16 are not regularly available at unaffiliated hospitals. The inability of one hospital system to
17 provide all of the reasonably foreseeable medical services its patients need inhibits the
18 development of innovative compensation arrangements and encourages large capital expenditures
19 that are necessary competitively, but not medically. Therefore, in order to make unduplicated

1 services affordably available to risk bearing hospitals, and to discourage competitively motivated
2 large capital expenditures to eliminate unduplicated services, a charging hospital may not charge
3 a risk bearing hospital, its affiliates, or the insurer(s) from which the risk bearing hospital is
4 accepting direct or indirect financial risk, more than one hundred ten percent (110%) of the
5 lowest rate the charging hospital accepts from any insurer from which the charging hospital
6 accepts direct or indirect financial risk for the same unduplicated service.

7 (c) As used in this section:

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

10 (2) "Charging hospital" means a hospital that is charging a risk bearing hospital directly
11 or indirectly, including through an arrangement with an insurer, for the cost of an unduplicated
12 service provided at the charging hospital. Direct or indirect financial risk exists when the amount
13 a risk bearing hospital is ultimately paid by an insurer varies with the cost or quality of care for
14 one or more unduplicated services provided at an unaffiliated hospital. For example, direct or
15 indirect financial risk includes payments for unduplicated services provided by an unaffiliated
16 hospital that are based on shared savings, global budgets, per case reimbursement, capitation,
17 percentage of premium and/or achieving quality or utilization measures. Purely fee-for-service
18 payments do not involve direct or indirect financial risk.

19 (3) "Insurer" has the same meaning as set forth in §27-18.4-1.

20 (4) "Risk bearing hospital" means a hospital that has direct or indirect financial risk for
21 one or more unduplicated services provided by a charging hospital.

22 (5) "Unaffiliated hospital" means a hospital that is not an affiliate of another hospital.

23 (6) "Unduplicated service" means a hospital service that is routinely provided at the
24 charging hospital but not at the risk bearing hospital.

25 (d) The department of health shall have the discretion to penalize violations of this
26 section by either imposing fines on the violating charging hospital that exceed the financial
27 benefit the charging hospital derived from the violation, or assessing such sanctions on the
28 violating hospital's license as the department considers appropriate.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO HEALTH AND SAFETY - LICENSING OF HEALTH CARE FACILITIES

1 This act prohibits a charging hospital from charging a risk bearing hospital or the
2 insurer(s) for the cost of an unduplicated service provided at the charging hospital, more than one
3 hundred ten percent (110%) of the lowest rate the charging hospital accepts from any insurer
4 from which the charging hospital accepts direct or indirect financial risk for the same
5 unduplicated services.

6 This act would take effect upon passage.

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