

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO HEALTH AND SAFETY - NURSING FACILITIES BED CAPACITY
MORATORIUM

Introduced By: Senators Jabour, Metts, and Quezada

Date Introduced: March 02, 2017

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.**

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

10 (b) Prior to July 1, 2019, and with the exception of the culture initiative pursuant to
11 subsection (d), 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 that may further apply.

1 Notwithstanding any other provision of the law to the contrary, including any moratorium on
2 increasing bed capacity in nursing facilities that may otherwise apply, the licensing agency shall
3 be permitted to increase the licensed bed capacity of an existing nursing facility by no more than
4 the number of beds previously licensed to one or more other licensed nursing facilities provided
5 that:

6 (1) All nursing facilities involved in any such transaction must be located within the same
7 municipality;

8 (2) The owner of a licensed nursing care facility seeking to increase its licensed bed
9 capacity must receive approval, following review by the health services council from the
10 licensing agency for change in owner of the nursing facility or facilities;

11 (3) The nursing facility's licensed bed capacity may only be increased upon the otherwise
12 unconditional cessation of operation of the previously licensed other nursing facility or facilities
13 and the return of the license of the nursing facility or nursing facilities to the licensing agency;
14 and

15 (4) The licensed nursing care facility seeking to increase its licensed bed complement
16 must comply with any requirements of the health care certificate of need act, chapter 15 of title
17 23.

18 (c) Notwithstanding any other provision of the law to the contrary, including any
19 moratorium on increasing bed capacity in nursing facilities that may otherwise apply, a nursing
20 facility may take out of service any or all beds of its licensed capacity without impediment to its
21 right to place back into service those beds at a future date under the same terms and conditions as
22 applied at the time of taking them out of service.

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

29 (i) Culture-change definitions and criteria shall be established through regulation, to
30 restrict beds added under this initiative only to beds that are designed to provide enhanced quality
31 of life to nursing facility residents through the adoption of principles and building designs
32 established by the "Eden Alternative," "Green House," or "Small House" programs or other like
33 means;

34 (ii) Only beds taken out-of-service due to facility closure after January 1, 2010, shall be

1 available for facility expansion under this culture-change initiative subsection. The total number
2 of beds that may be licensed to increase capacity under this culture-change initiative shall be
3 limited to ninety percent (90%) of the first fifty (50) beds that are taken out-of-service, to seventy
4 percent (70%) of the next fifty (50) beds that are taken out-of-service, and to fifty percent (50%)
5 of any additional beds taken out-of-service;

6 (iii) Only nursing facilities licensed in the state are eligible to expand under the culture-
7 change initiative;

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

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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- 1 This act would establish limited conditions that must be satisfied to permit an increase in
- 2 the bed capacity of existing nursing facilities, despite the moratorium on expansion.
- 3 This act would take effect upon passage.

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