

2024 -- S 2604

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

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

Introduced By: Senators Euer, Valverde, Lauria, Murray, Lawson, McKenney,
Sosnowski, DiMario, Cano, and Gallo

Date Introduced: March 01, 2024

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-17-2, 23-17-5.1 and 23-17-65 of the General Laws in Chapter
2 23-17 entitled "Licensing of Healthcare Facilities" are hereby amended to read as follows:

3 **23-17-2. Definitions.**

4 As used in this chapter:

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

7 (2) "Alzheimer's dementia special-care unit or program" means a distinct living
8 environment within a nursing facility that has been physically adapted to accommodate the
9 particular needs and behaviors of those with dementia. The unit provides increased staffing;
10 therapeutic activities designed specifically for those with dementia; and trains its staff on an
11 ongoing basis on the effective management of the physical and behavioral problems of those with
12 dementia. The residents of the unit/program have had a standard, medical-diagnostic evaluation
13 and have been determined to have a diagnosis of Alzheimer's dementia or another dementia.

14 (3) "Certified nurse-teacher" means those personnel certified by the department of
15 elementary and secondary education and employed pursuant to the provisions of §§ 16-21-7 and
16 16-21-8.

17 (4)(i) "Change in operator" means a transfer by the governing body or operator of a
18 healthcare facility to any other person (excluding delegations of authority to the medical or
19 administrative staff of the facility) of the governing body's authority to:

- 1 (A) Hire or fire the chief executive officer of the healthcare facility;
2 (B) Maintain and control the books and records of the healthcare facility;
3 (C) Dispose of assets and incur liabilities on behalf of the healthcare facility; or
4 (D) Adopt and enforce policies regarding operation of the healthcare facility.

5 (ii) This definition is not applicable to circumstances wherein the governing body of a
6 healthcare facility retains the immediate authority and jurisdiction over the activities enumerated
7 in subsections (4)(i)(A) — (4)(i)(D).

8 (5) “Change in owner” means:

9 (i) In the case of a healthcare facility that is a partnership, the removal, addition, or
10 substitution of a partner that results in a new partner acquiring a controlling interest in the
11 partnership;

12 (ii) In the case of a healthcare facility that is an unincorporated, solo proprietorship, the
13 transfer of the title and property to another person;

14 (iii) In the case of a healthcare facility that is a corporation:

15 (A) A sale, lease exchange, or other disposition of all, or substantially all, of the property
16 and assets of the corporation; or

17 (B) A merger of the corporation into another corporation; or

18 (C) The consolidation of two (2) or more corporations, resulting in the creation of a new
19 corporation; or

20 (D) In the case of a healthcare facility that is a business corporation, any transfer of
21 corporate stock that results in a new person acquiring a controlling interest in the corporation; or

22 (E) In the case of a healthcare facility that is a nonbusiness corporation, any change in
23 membership that results in a new person acquiring a controlling vote in the corporation.

24 (6) “Clinician” means a physician licensed under chapter 37 of title 5; a nurse licensed
25 under chapter 34 of title 5; a psychologist licensed under chapter 44 of title 5; a social worker
26 licensed under chapter 39.1 of title 5; a physical therapist licensed under chapter 40 of title 5; and
27 a speech language pathologist or audiologist licensed under chapter 48 of title 5.

28 (7) “Director” means the director of the Rhode Island state department of health.

29 (8) “Freestanding emergency-care facility” means an establishment, place, or facility that
30 may be a public or private organization, structurally distinct and separate from a hospital; staffed,
31 equipped, and operated to provide prompt, emergency medical care. For the purposes of this
32 chapter, “emergency medical care” means services provided for a medical condition or behavioral-
33 health condition that is manifested by symptoms of sufficient severity that, in the absence of
34 immediate medical attention, could result in harm to the person or others; serious impairment to

1 bodily functions; serious dysfunction of any bodily organ or part; or development or continuance
2 of severe pain.

3 (9) “Healthcare facility” means any institutional health-service provider, facility, or
4 institution, place, building, agency, or portion thereof, whether a partnership or corporation,
5 whether public or private, whether organized for profit or not, used, operated, or engaged in
6 providing healthcare services, including, but not limited to: hospitals; nursing facilities; home
7 nursing-care provider (which shall include skilled nursing services and may also include activities
8 allowed as a home-care provider or as a nursing service agency); home-care provider (which may
9 include services such as personal care or homemaker services); rehabilitation centers; kidney
10 disease treatment centers; health maintenance organizations; freestanding emergency-care facilities
11 as defined in this section, and facilities providing surgical treatment to patients not requiring
12 hospitalization (surgi-centers); hospice care, and physician ambulatory-surgery centers and
13 podiatry ambulatory-surgery centers providing surgical treatment. The term “healthcare facility”
14 also includes organized ambulatory-care facilities that are not part of a hospital but that are
15 organized and operated to provide healthcare services to outpatients, such as: central-services
16 facilities serving more than one healthcare facility or healthcare provider; treatment centers;
17 diagnostic centers; outpatient clinics; infirmaries and health centers; school-based health centers,
18 and neighborhood health centers. The term “healthcare facility” also includes a mobile health-
19 screening vehicle as defined in this section. The term “healthcare facility” shall not apply to
20 organized, ambulatory-care facilities owned and operated by professional service corporations as
21 defined in chapter 5.1 of title 7, as amended (the “professional service corporation law”), or to a
22 practitioner’s (physician, dentist, or other healthcare provider) office or group of practitioners’
23 offices (whether owned and/or operated by a hospital or an affiliate of a hospital or an individual
24 practitioner, alone or as a member of a partnership, professional service corporation, organization,
25 or association); provided, however, notwithstanding any other provision herein or in the general
26 laws, any hospital or any affiliate of a hospital that owns and/or operates a practitioner’s office shall
27 ensure that such practitioner’s office complies with licensing or accreditation requirements that
28 may be applicable to the practitioner’s office. Individual categories of healthcare facilities shall be
29 defined in rules and regulations promulgated by the licensing agency with the advice of the health
30 services council. Rules and regulations concerning hospice care shall be promulgated with regard
31 to the “Standards of a Hospice Program of Care,” promulgated by the National Hospice
32 Organization. Any provider of hospice care who provides hospice care without charge shall be
33 exempt from the licensing provisions of this chapter but shall meet the “Standards of a Hospice
34 Program of Care.” Facilities licensed by the department of behavioral healthcare, developmental

1 disabilities and hospitals and the department of human services, and clinical laboratories licensed
2 in accordance with chapter 16.2 of this title, as well as Christian Science institutions (also known
3 as Christian Science Nursing Facilities) listed and certified by the Commission for Accreditation
4 of Christian Science Nursing Organizations/Facilities, Inc. shall not be considered healthcare
5 facilities for purposes of this chapter.

6 (10) “Homemaker,” or however else called, means a trained, nonprofessional worker who
7 performs related housekeeping services in the home for the sick, disabled, dependent, or infirm,
8 and as further defined by regulation; the director shall establish criteria for training.

9 (11) “Hospital” means a person or governmental entity licensed in accordance with this
10 chapter to establish, maintain, and operate a hospital.

11 (12) “Immediate family member” means a spouse, natural parent, child, sibling, first
12 cousin, aunt, uncle, adopted child, adoptive parent, stepparent, stepchild, stepsister, stepbrother,
13 father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law,
14 grandparent, and grandchild.

15 ~~(12)~~(13) “Licensing agency” means the Rhode Island state department of health.

16 ~~(13)~~(14) “Medical services” means any professional services and supplies rendered by, or
17 under the direction of, persons duly licensed under the laws of this state to practice medicine,
18 surgery, or podiatry that may be specified by any medical service plan. Medical service shall not
19 be construed to include hospital services.

20 ~~(14)~~(15) “Mobile health-screening vehicle” means a mobile vehicle, van, or trailer that
21 delivers primary and preventive healthcare screening services, and:

22 (i) Does not maintain active contracts or arrangements with any health insurer subject to
23 regulation under chapter 20 or 42 of title 27;

24 (ii) Does not maintain active contracts or arrangements with another licensed healthcare
25 facility as that term is defined within this section; and

26 (iii) Does not provide medical services free of charge.

27 ~~(15)~~(16) “Non-English speaker” means a person who cannot speak or understand, or has
28 difficulty in speaking or understanding, the English language, because he/she uses only, or
29 primarily, a spoken language other than English, and/or a person who uses a sign language and
30 requires the use of a sign-language interpreter to facilitate communication.

31 ~~(16)~~(17) “Person” means any individual, trust or estate, partnership, corporation (including
32 associations, joint stock companies, and insurance companies), state, or political subdivision or
33 instrumentality of a state.

34 ~~(17)~~(18) “Physician ambulatory-surgery center” means an office, or portion of an office,

1 that is utilized for the purpose of furnishing surgical services to the owner and/or operator's own
2 patients on an ambulatory basis, and shall include both single-practice, physician ambulatory-
3 surgery centers and multi-practice, physician ambulatory-surgery centers. A "single-practice,
4 physician ambulatory-surgery center" is a physician ambulatory center owned and/or operated by
5 a physician-controlled professional service corporation as defined in chapter 5.1 of title 7 (the
6 "professional service corporation law"), or a physician-controlled limited-liability company (as
7 defined in chapter 16 of title 7 (the "limited liability company act")) in which no physician is an
8 officer, shareholder, director, or employee of any other corporation engaged in the practice of the
9 same profession, or a private physician's office (whether owned and/or operated by an individual
10 practitioner, alone or as a member of a partnership, professional service corporation, limited-
11 liability company, organization, or association). A "multi-practice, physician ambulatory-surgery
12 center" is a physician ambulatory-surgery center owned and/or operated by a physician-controlled
13 professional service corporation (as defined in the professional service corporation law) or a
14 physician-controlled limited-liability company (as defined in the limited liability company act) in
15 which a physician is also an officer, shareholder, director, or employee of another corporation
16 engaged in the practice of the same profession, or a group of physicians' offices (whether owned
17 and/or operated by an individual practitioner, alone or as a member of a partnership, professional
18 service corporation, limited-liability company, organization, or association).

19 ~~(18)~~(19) "Podiatry ambulatory-surgery center" means an office or portion of an office that
20 is utilized for the purpose of furnishing surgical services to the owner and/or operator's own
21 patients on an ambulatory basis, and shall include both single-practice, podiatry ambulatory-
22 surgery centers and multi-practice podiatry ambulatory-surgery centers. A "single-practice podiatry
23 ambulatory-surgery center" is a podiatry ambulatory center owned and/or operated by a podiatrist-
24 controlled professional service corporation (as defined in chapter 5.1 of title 7 (the "professional
25 service corporation law")), or a podiatrist-controlled limited-liability company (as defined in
26 chapter 16 of title 7 (the "limited liability company act")) in which no podiatrist is an officer,
27 shareholder, director, or employee of any other corporation engaged in the practice of the same
28 profession, or a private podiatrist's office (whether owned and/or operated by an individual
29 practitioner, alone or as a member of a partnership, professional service corporation, limited-
30 liability company, organization, or association). A "multi-practice, podiatry ambulatory-surgery
31 center" is a podiatry ambulatory-surgery center owned and/or operated by a podiatrist-controlled
32 professional service corporation (as defined in the professional service corporation law) or a
33 podiatrist-controlled, limited-liability company (as defined in the limited liability company act) in
34 which a podiatrist is also an officer, shareholder, director, or employee of another corporation

1 engaged in the practice of the same profession, or a group of podiatrists' offices (whether owned
2 and/or operated by an individual practitioner, alone or as a member of a partnership, professional
3 service corporation, limited-liability company, organization, or association).

4 ~~(19)~~(20) "Qualified interpreter" means a person who, through experience and/or training,
5 is able to translate a particular foreign language into English, with the exception of sign-language
6 interpreters who must be licensed in accordance with chapter 71 of title 5.

7 ~~(20)~~(21) "Qualified sign-language interpreter" means one who has been licensed in
8 accordance with the provisions of chapter 71 of title 5.

9 (22) "Related party" means an organization related to an owner of a nursing home or related
10 to a third-party entity to which substantial management control of the nursing home's operations is
11 to be delegated, or that, either directly or through contracts with a third-party entity exercising
12 substantial management control over the nursing home, will or is expected to provide a service,
13 facility, land or other real property, or supplies to a nursing home that is the subject of a transfer of
14 ownership application, or that, either directly or through contracts with a third-party entity
15 exercising substantial management control over the nursing home, will or is expected to otherwise
16 do business with a nursing home that is the subject of a transfer of ownership application: in which
17 organization the nursing home or a third-party entity to which substantial management control over
18 the nursing home is to be delegated or any owner or principal of the third-party entity, has an
19 ownership or control interest of five percent (5%) or more; which is an organization in which an
20 immediate family member of an owner or principal of the applicant for transfer of ownership of the
21 nursing home, or an immediate family member of an owner or principal of a third-party entity to
22 which substantial management control over the nursing home is to be delegated, is an owner or
23 principal; or which organization is under common ownership or control with the applicant or third-
24 party entity, as defined in 42 CFR 413.17(b). "Related party" may include, but shall not be limited
25 to: home offices; management organizations; owners of real estate; entities that provide staffing,
26 therapy, pharmaceutical, marketing, administrative management, consulting, and insurance
27 services; providers of supplies and equipment; financial advisors and consultants; banking and
28 financial entities; and all parent companies, holding companies, and sister organizations; and any
29 entity in which an immediate family member of an owner of those organizations has an ownership
30 interest of five (5%) percent or more.

31 ~~(21)~~(23) "School-based health center" means a facility located in an elementary or
32 secondary school licensed as a school-based health center that delivers primary and/or preventive
33 healthcare services to individuals to include, but not be limited to, students on site.

34 (24) "Substantial management control" means the primary authority to direct the operation

1 and administration of a nursing home, including, but not limited to, exercising control or authority
2 over resident admissions, room assignments, number of beds, staff hiring, staff scheduling, staff
3 assignments, personnel issues, billing, purchasing, managing vendor contracts, establishing and
4 enforcing operational protocols and procedures, resident safety, infection control, communicating
5 with and reporting to governmental and other entities, and ensuring compliance with state and
6 federal requirements concerning the operation of the nursing home; provided that, more than one
7 entity may exercise authority that constitutes substantial management control.

8 **23-17-5.1. Additional information required of nursing facility applicants for initial**
9 **licensure or change of ownership.**

10 (a) The department shall adopt regulations regarding information to be provided by
11 applicants for the initial licensure of or change of ownership of a nursing facility to include
12 information relating to the background and qualifications of the applicant or proposed license
13 holder. For purposes of this section, applicants must meet a financial threshold that shall include,
14 as a minimum, that the applicant or proposed license holder shall have sufficient resources to
15 operate the nursing facility at licensed capacity for thirty (30) days, evidenced by an unencumbered
16 line of credit, a joint escrow account established with the department, or a performance bond
17 secured in favor of the state or a similar form of security satisfactory to the department. The
18 department may also require background information to be submitted relating to any partner,
19 officer, director, manager or member (if member-managed) of the applicant or proposed license
20 holder, or information relating to each person having a beneficial ownership interest of five percent
21 (5%) or more in the applicant or proposed license holder.

22 (b) In reviewing information required by subsection (a), the department may require the
23 applicant or proposed license holder to file a sworn affidavit substantiating the validity of any
24 submitted information as required by the department to substantiate a satisfactory compliance
25 history relating to each state or other jurisdiction in which the applicant, proposed license holder
26 or any other person described by subsection (a) operated a nursing facility at any time during the
27 five-year period preceding the date on which the application is made. The department shall
28 determine what constitutes a satisfactory compliance history. The department may also require the
29 applicant or proposed license holder to file information relating to the current financial condition
30 of the applicant, proposed license holder or any other person described by subsection (a) and the
31 history of the financial condition of the applicant, proposed license holder or any other person
32 described by subsection (a) with respect to a facility operated in another state or jurisdiction at any
33 time during the five-year period preceding the date on which the application is made.

34 (c) In addition to the information required to be provided in subsections (a) and (b) above,

1 the department shall gather information from state departments and agencies relating to the
2 background and qualifications of the applicant, proposed license holder, or any person having a
3 five percent (5%) or more beneficial ownership interest.

4 (d) Any applicant seeking a nursing facility license who intends to contract with a
5 management company to assist with that facility's operations shall file a copy of the proposed
6 management contract with the department or provide information to the department regarding the
7 management services to be provided by the management company that indicate the management
8 fees to be paid and areas of control for which the management company shall be responsible. All
9 applications for initial licensure and change of ownership shall include copies of any proposed
10 management contracts and information about management fee arrangements as well as
11 identification of every person having an ownership of five percent (5%) or more in the management
12 company, if the management company is a corporation or limited liability company, and
13 identification of every general or limited partner if the management company is a general
14 partnership or a limited partnership.

15 (e) The department shall require the filing of the following documents any time there is a
16 change in ownership of five (5%) percent or more in the management company:

17 (1) Organizational chart, which shall include, as applicable, parent corporations and
18 entities, wholly owned subsidiaries, and related parties and the names and addresses of all owners,
19 principals, and interested parties of the third-party entity;

20 (2) All agreements, both draft and final, for the lease of property;

21 (3) All management agreements, both draft and final;

22 (4) A history of all disciplinary actions at all other facilities owned, operated, or managed
23 by the proposed owners and principals in Rhode Island and in any other jurisdiction;

24 (5) Documentation of all outstanding and issued Medicaid audit claims, Medicaid
25 overpayments and state-issued penalties by the department of health pertaining to the operations of
26 the proposed owners;

27 (6) A consolidated financial statement for the third-party entity that meets the requirements
28 of the department which shall include consolidated owner-certified financial statements for all
29 facilities owned, operated, or managed by the third-party entity in any state or territory of the United
30 States or in the District of Columbia for the preceding three (3) years.

31 (i) Consolidated financial statements may include, but are not limited to:

32 (A) A balance sheet detailing the assets, liabilities, and net worth at the end of the reporting
33 entity's fiscal year;

34 (B) A statement of income, expenses, and operating surplus or deficit for the annual fiscal

1 period, and a statement of ancillary utilization and patient census;

2 (C) A statement detailing patient revenue by payer, including, but not limited to, Medicare,
3 and other payers, and revenue center;

4 (D) A statement of cash flows, including, but not limited to, ongoing and new capital
5 expenditures and depreciation; and

6 (E) A statement of any loans or equipment leases in excess of ten thousand dollars
7 (\$10,000) dollars and the interest rate and any fees charged by the lender or lessor; and

8 (7) In the case of an application to transfer an interest of less than five percent (5%) in a
9 nursing home, the applicant shall:

10 (i) Disclose any licensed health care facilities owned, operated, or managed by the
11 proposed owners and principals in any state or territory of the United States or in the District of
12 Columbia in the preceding year;

13 (ii) If the applicant has never previously owned or operated a licensed health care facility
14 in Rhode Island, the applicant shall submit to a criminal history record background check of each
15 proposed owner and principal, including related parties; and

16 (iii) A combined financial statement that includes all entities reported in the consolidated
17 financial statement, unless the reporting entity is prohibited from including a combined financial
18 statement in a consolidated financial statement pursuant to state or federal law or regulation or
19 national accounting standard, in which case the reporting entity shall disclose to the department the
20 applicable state or federal law or regulation or national accounting standard.

21 (f) Nothing in this section shall be construed to authorize any nursing home to delegate
22 substantial management control of the nursing home's operations to a third-party entity without
23 providing prior written notice to the department.

24 **23-17-65. ~~Transparency of ownership in healthcare facilities.~~ Transparency of**
25 **ownership in healthcare facilities and related parties.**

26 (a) Any operator or operators of a nursing facility shall file with the department of health
27 information of one hundred percent (100%) of the current ownership including, but not limited to,
28 the following:

29 (1) The name, address, and a description of the interest held by each of the following
30 persons or parties:

31 (i) Any person who, directly or indirectly, beneficially owns any interest in the land on
32 which the facility is located;

33 (ii) Any person who, directly or indirectly, beneficially owns any interest in the building
34 in which the facility is located;

1 (iii) Any person who, directly or indirectly, beneficially owns any interest in any mortgage,
2 note, deed of trust, or other obligation secured, in whole or in part, by the land on which or building
3 in which the facility is located;

4 (iv) Any person who, directly or indirectly, has any interest as lessor or lessee in any lease
5 or sub-lease of the land on which or the building in which the facility is located, including a copy
6 of any lease agreements for real property;

7 (v) Any person who is the ultimate and actual owner of the land, building, mortgages, and
8 leases of the nursing facility and any lessee of the land or building; ~~and~~

9 (vi) ~~The operator or operators of the nursing facility.~~ Parent entities, wholly-owned
10 subsidiaries, and related parties which any owner or principal has an ownership or controlling
11 interest of five (5%) percent or more that will or are expected to provide a service, facility, or
12 supplies to the nursing home; and

13 (vii) Unrelated parties that will or are expected to provide a service, facility, or supplies to
14 the nursing home and that will or are expected to be paid more than two hundred thousand dollars
15 (\$200,000) by the nursing home in the coming year.

16 (2) If any person named in subsection (a)(1) of this section is a partnership or limited
17 liability company, then the name and address of each partner or member.

18 (3) If any person named in subsection (a)(1) of this section is a corporation, other than a
19 corporation whose shares are traded on a national securities exchange or are regularly quoted in an
20 over-the-counter market or which is a commercial bank, savings bank, or savings and loan
21 association, then the name and address of each officer, director, stockholder and, if known, each
22 principal stockholder and controlling person of such corporation.

23 (4) If any corporation named in subsection (a)(1) of this section is a corporation whose
24 shares are traded on a national securities exchange or are regularly quoted in an over-the-counter
25 market or which is a commercial bank, savings bank, or savings and loan association, then the name
26 and address of the principal executive officers and each director and, if known, each principal
27 stockholder of such corporation.

28 (b) In order to promote greater transparency, the department of health shall, upon request,
29 furnish to the public all documents and information received pursuant to this section.

30 (c) As used in this section, the term “operator” means the licensee and also includes the
31 complete ownership entity above the actual entity holding the license.

32 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 include immediate family members and related parties to be included in the
2 definitions applicable to the chapter and require that information for nursing facility applicants for
3 initial licensure or change of ownership. Provide financial documentation and detailed information
4 relating to ownership of the applicant.

5 This act would take effect upon passage.

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