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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

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A N A C T

RELATING TO HEALTH AND SAFETY -- DETERMINATION OF NEED FOR NEW
HEALTHCARE EQUIPMENT AND NEW INSTITUTIONAL HEALTH SERVICES

Introduced By: Representatives Place, Quattrocchi, Hopkins, J. Brien, Santucci, and
Newberry

Date Introduced: February 07, 2025

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-15 of the General Laws entitled "Determination of Need for New
2 Healthcare Equipment and New Institutional Health Services" is hereby repealed in its entirety.

3 ~~CHAPTER 23-15~~

4 ~~Determination of Need for New Healthcare Equipment and New Institutional Health Services~~

5 ~~23-15-1. Short title.~~

6 ~~This chapter may be cited as the "Health Care Certificate of Need Act of Rhode Island".~~

7 ~~23-15-2. Definitions.~~

8 ~~As used in this chapter:~~

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

17 ~~(2) "Cost impact analysis" means a written analysis of the effect that a proposal to offer or~~
18 ~~develop new institutional health services or new healthcare equipment, if approved, will have on~~

1 ~~healthcare costs and shall include any detail that may be prescribed by the state agency in rules and~~
2 ~~regulations.~~

3 ~~(3) “Director” means the director of the Rhode Island state department of health.~~

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

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

25 ~~(5) “Healthcare provider” means a person who is a direct provider of healthcare services~~
26 ~~(including but not limited to physicians, dentists, nurses, podiatrists, physician assistants, or nurse~~
27 ~~practitioners) in that the person’s primary current activity is the provision of healthcare services for~~
28 ~~persons.~~

29 ~~(6) “Health services” means organized program components for preventive, assessment,~~
30 ~~maintenance, diagnostic, treatment, and rehabilitative services provided in a healthcare facility.~~

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

34 ~~(8) “Institutional health services” means health services provided in or through healthcare~~

1 ~~facilities and includes the entities in or through that the services are provided.~~

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

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

12 ~~(i) Construction, development, or other establishment of a new healthcare facility.~~

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

20 ~~(iii) Where a person makes an acquisition by, or on behalf of, a healthcare facility or health~~
21 ~~maintenance organization under lease or comparable arrangement or through donation, which~~
22 ~~would have required review if the acquisition had been by purchase, the acquisition shall be deemed~~
23 ~~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 healthcare facility with respect to which the expenditure is made, except that~~
26 ~~the state agency may exempt from review, by rules and regulations promulgated for this chapter,~~
27 ~~any bed reclassifications made to licensed nursing facilities and annual increases in licensed bed~~
28 ~~capacities of nursing facilities that do not exceed the greater of ten (10) beds or ten percent (10%)~~
29 ~~of facility licensed bed capacity and for which the related capital expenditure does not exceed two~~
30 ~~million dollars (\$2,000,000).~~

31 ~~(v) Any health service proposed to be offered to patients or the public by a healthcare~~
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 by~~
34 ~~more than one million five hundred thousand dollars (\$1,500,000), except that the state agency may~~

1 ~~exempt from review, by rules and regulations promulgated for this chapter, any health service~~
2 ~~involving reclassification of bed capacity made to licensed nursing facilities. Further, beginning~~
3 ~~July 1, 2012, and each July thereafter, the amount shall be adjusted by the percentage of increase~~
4 ~~in the consumer price index for all urban consumers (CPI-U) as published by the United States~~
5 ~~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 imaging~~
9 ~~and computerized axial tomography; provided, however, that the state agency shall exempt from~~
10 ~~review any application that proposes one for one equipment replacement as defined by and listed~~
11 ~~in regulation. Acquisition of full body magnetic resonance imaging and computerized axial~~
12 ~~tomography shall not require a certificate of need review and approval by the state agency if~~
13 ~~satisfactory evidence is provided to the state agency that it was acquired for under one million~~
14 ~~dollars (\$1,000,000) on or before January 1, 2010, and was in operation on or before July 1, 2010.~~

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

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

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

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

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

28 ~~**23-15-3. Purpose.**~~

29 ~~The purpose of this chapter is to provide for the development, establishment, and~~
30 ~~enforcement of standards for the authorization and allocation of new institutional health services~~
31 ~~and new health care equipment.~~

32 ~~**23-15-4. Review and approval of new health care equipment and new institutional**~~
33 ~~**health services.**~~

34 ~~(a) No health care provider or health care facility shall develop or offer new health care~~

1 ~~equipment or new institutional health services in Rhode Island, the magnitude of which exceeds~~
2 ~~the limits defined by this chapter, without prior review by the health services council and approval~~
3 ~~by the state agency; except that review by the health services council may be waived in the case of~~
4 ~~expeditious reviews conducted in accordance with § 23-15-5, and except that health maintenance~~
5 ~~organizations which fulfill criteria to be established in rules and regulations promulgated by the~~
6 ~~state agency with the advice of the health services council shall be exempted from the review and~~
7 ~~approval requirement established in this section upon approval by the state agency of an application~~
8 ~~for exemption from the review and approval requirement established in this section which contain~~
9 ~~any information that the state agency may require to determine if the health maintenance~~
10 ~~organization meets the criteria.~~

11 ~~(b) No approval shall be made without an adequate demonstration of need by the applicant~~
12 ~~at the time and place and under the circumstances proposed, nor shall the approval be made without~~
13 ~~a determination that a proposal for which need has been demonstrated is also affordable by the~~
14 ~~people of the state.~~

15 ~~(c) No approval of new institutional health services for the provision of health services to~~
16 ~~inpatients shall be granted unless the written findings required in accordance with § 23-15-6(b)(6)~~
17 ~~are made.~~

18 ~~(d) Applications for determination of need shall be filed with the state agency on a date~~
19 ~~fixed by the state agency together with plans and specifications and any other appropriate data and~~
20 ~~information that the state agency shall require by regulation, and shall be considered in relation to~~
21 ~~each other no less than once a year. A duplicate copy of each application together with all~~
22 ~~supporting documentation shall be kept on file by the state agency as a public record.~~

23 ~~(e) The health services council shall consider, but shall not be limited to, the following in~~
24 ~~conducting reviews and determining need:~~

25 ~~(1) The relationship of the proposal to state health plans that may be formulated by the state~~
26 ~~agency;~~

27 ~~(2) The impact of approval or denial of the proposal on the future viability of the applicant~~
28 ~~and of the providers of health services to a significant proportion of the population served or~~
29 ~~proposed to be served by the applicant;~~

30 ~~(3) The need that the population to be served by the proposed equipment or services has~~
31 ~~for the equipment or services;~~

32 ~~(4) The availability of alternative, less costly, or more effective methods of providing~~
33 ~~services or equipment, including economies or improvements in service that could be derived from~~
34 ~~feasible cooperative or shared services;~~

- 1 ~~(5) The immediate and long term financial feasibility of the proposal, as well as the~~
2 ~~probable impact of the proposal on the cost of, and charges for, health services of the applicant;~~
- 3 ~~(6) The relationship of the services proposed to be provided to the existing health care~~
4 ~~system of the state;~~
- 5 ~~(7) The impact of the proposal on the quality of health care in the state and in the population~~
6 ~~area to be served by the applicant;~~
- 7 ~~(8) The availability of funds for capital and operating needs for the provision of the services~~
8 ~~or equipment proposed to be offered;~~
- 9 ~~(9) The cost of financing the proposal including the reasonableness of the interest rate, the~~
10 ~~period of borrowing, and the equity of the applicant in the proposed new institutional health service~~
11 ~~or new equipment;~~
- 12 ~~(10) The relationship, including the organizational relationship of the services or~~
13 ~~equipment proposed, to ancillary or support services;~~
- 14 ~~(11) Special needs and circumstances of those entities which provide a substantial portion~~
15 ~~of their services or resources, or both, to individuals not residing within the state;~~
- 16 ~~(12) Special needs of entities such as medical and other health professional schools,~~
17 ~~multidisciplinary clinics, and specialty centers; also, the special needs for and availability of~~
18 ~~osteopathic facilities and services within the state;~~
- 19 ~~(13) In the case of a construction project:~~
 - 20 ~~(i) The costs and methods of the proposed construction;~~
 - 21 ~~(ii) The probable impact of the construction project reviewed on the costs of providing~~
22 ~~health services by the person proposing the construction project; and~~
 - 23 ~~(iii) The proposed availability and use of safe patient handling equipment in the new or~~
24 ~~renovated space to be constructed.~~
- 25 ~~(14) Those appropriate considerations that may be established in rules and regulations~~
26 ~~promulgated by the state agency with the advice of the health services council;~~
- 27 ~~(15) The potential of the proposal to demonstrate or provide one or more innovative~~
28 ~~approaches or methods for attaining a more cost effective and/or efficient health care system;~~
- 29 ~~(16) The relationship of the proposal to the need indicated in any requests for proposals~~
30 ~~issued by the state agency;~~
- 31 ~~(17) The input of the community to be served by the proposed equipment and services and~~
32 ~~the people of the neighborhoods close to the health care facility who are impacted by the proposal;~~
- 33 ~~(18) The relationship of the proposal to any long range capital improvement plan of the~~
34 ~~health care facility applicant.~~

1 ~~(19) Cost impact statements forwarded pursuant to subsection 23-15-6(e).~~

2 ~~(f) In conducting its review, the health services council shall perform the following:~~

3 ~~(1) Within one hundred and fifteen (115) days after initiating its review, which must be~~

4 ~~commenced no later than thirty-one (31) days after the filing of an application, the health services~~

5 ~~council shall determine as to each proposal whether the applicant has demonstrated need at the time~~

6 ~~and place and under the circumstances proposed, and in doing so may apply the criteria and~~

7 ~~standards set forth in subsection (e) of this section; provided however, that a determination of need~~

8 ~~shall not alone be sufficient to warrant a recommendation to the state agency that a proposal should~~

9 ~~be approved. The director shall render his or her decision within five (5) days of the determination~~

10 ~~of the health services council.~~

11 ~~(2) Prior to the conclusion of its review in accordance with § 23-15-6(e), the health services~~

12 ~~council shall evaluate each proposal for which a determination of need has been established in~~

13 ~~relation to other proposals, comparing proposals with each other, whether similar or not,~~

14 ~~establishing priorities among the proposals for which need has been determined, and taking into~~

15 ~~consideration the criteria and standards relating to relative need and affordability as set forth in~~

16 ~~subsection (e) of this section and § 23-15-6(f).~~

17 ~~(3) At the conclusion of its review, the health services council shall make recommendations~~

18 ~~to the state agency relative to approval or denial of the new institutional health services or new~~

19 ~~health care equipment proposed; provided that:~~

20 ~~(i) The health services council shall recommend approval of only those proposals found to~~

21 ~~be affordable in accordance with the provisions of § 23-15-6(f); and~~

22 ~~(ii) If the state agency proposes to render a decision that is contrary to the recommendation~~

23 ~~of the health services council, the state agency must render its reasons for doing so in writing.~~

24 ~~(g) Approval of new institutional health services or new health care equipment by the state~~

25 ~~agency shall be subject to conditions that may be prescribed by rules and regulations developed by~~

26 ~~the state agency with the advice of the health services council, but those conditions must relate to~~

27 ~~the considerations enumerated in subsection (e) and to considerations that may be established in~~

28 ~~regulations in accordance with subsection (e)(14).~~

29 ~~(h) The offering or developing of new institutional health services or health care equipment~~

30 ~~by a health care facility without prior review by the health services council and approval by the~~

31 ~~state agency shall be grounds for the imposition of licensure sanctions on the facility, including~~

32 ~~denial, suspension, revocation, or curtailment or for imposition of any monetary fines that may be~~

33 ~~statutorily permitted by virtue of individual health care facility licensing statutes.~~

34 ~~(i) No government agency and no hospital or medical service corporation organized under~~

1 ~~the laws of the state shall reimburse any health care facility or health care provider for the costs~~
2 ~~associated with offering or developing new institutional health services or new health care~~
3 ~~equipment unless the health care facility or health care provider has received the approval of the~~
4 ~~state agency in accordance with this chapter. Government agencies and hospital and medical~~
5 ~~service corporations organized under the laws of the state shall, during budget negotiations, hold~~
6 ~~health care facilities and health care providers accountable to operating efficiencies claimed or~~
7 ~~projected in proposals which receive the approval of the state agency in accordance with this~~
8 ~~chapter.~~

9 ~~(j) In addition, the state agency shall not make grants to, enter into contracts with, or~~
10 ~~recommend approval of the use of federal or state funds by any health care facility or health care~~
11 ~~provider which proceeds with the offering or developing of new institutional health services or new~~
12 ~~health care equipment after disapproval by the state agency.~~

13 ~~**23-15-4.1. Exemption for nonclinical capital expenditures.**~~

14 ~~Notwithstanding the requirements of any other provisions of any general or public laws,~~
15 ~~capital expenditures by a health care facility that are not directly related to the provision of health~~
16 ~~services as defined in this chapter, including, but not limited to, capital expenditures for parking~~
17 ~~lots, billing computer systems, and telephone systems, shall not require a certificate of need review~~
18 ~~and approval by the state agency.~~

19 ~~**23-15-4.2. Exemption for research.**~~

20 ~~Notwithstanding the requirements of any other provisions of any general or public laws,~~
21 ~~capital expenditures by a health care facility related to research in basic biomedical or medical~~
22 ~~research areas that are not directly related to the provision of clinical or patient care services shall~~
23 ~~not require a certificate of need review and approval by the state agency.~~

24 ~~**23-15-4.4. Exemption for voter approved capital bond issues for health care facilities.**~~

25 ~~Notwithstanding the requirements of any other provisions of any general law or public~~
26 ~~laws, voter approved state bond issues authorizing capital expenditures for state health care~~
27 ~~facilities shall not require a certificate of need review and approval by the state agency.~~

28 ~~**23-15-5. Expeditious review.**~~

29 ~~(a) Any person who proposes to offer or develop new institutional health services or new~~
30 ~~healthcare equipment for documented emergency needs; or for the purpose of eliminating or~~
31 ~~preventing documented fire or safety hazards affecting the lives and health of patients or staff; or~~
32 ~~for compliance with accreditation standards required for receipt of federal or state reimbursement;~~
33 ~~or for any other purpose that the state agency may specify in rules and regulations, may apply for~~
34 ~~an expeditious review. The state agency may exercise its discretion in recommending approvals~~

1 ~~through an expeditious review, except that no new institutional health service or new healthcare~~
2 ~~equipment may be approved through the expeditious review if provision of the new institutional~~
3 ~~health service or new healthcare equipment is contra-indicated by the state health plan as may be~~
4 ~~formulated by the state agency. Specific procedures for the conduct of expeditious reviews shall be~~
5 ~~promulgated in rules and regulations adopted by the state agency with the advice of the health~~
6 ~~services council.~~

7 ~~(b) The decision of the state agency not to conduct an expeditious review shall be~~
8 ~~reconsidered upon a written petition to the state agency, and the state agency shall be required to~~
9 ~~respond to the written petition within ten (10) days stating whether expeditious review is granted.~~
10 ~~If the request for reconsideration is denied, the state agency shall state the reasons in writing why~~
11 ~~the expeditious request had been denied.~~

12 ~~(c) The decision of the state agency in connection with an expeditious review shall be~~
13 ~~rendered within thirty (30) days after the commencement of said review.~~

14 ~~(d) Any healthcare facility that provides a service performed in another state and that is not~~
15 ~~performed in the state of Rhode Island, or such service is performed in the state on a very limited~~
16 ~~basis, shall be granted expeditious review upon request under this section, provided that such~~
17 ~~service, among other things, has a clear effect on the timeliness, access, or quality of care and is~~
18 ~~able to meet licensing standards.~~

19 **23-15-6. Procedures for review.**

20 ~~(a) The state agency, with the advice of the health services council, and in accordance with~~
21 ~~the Administrative Procedures Act, chapter 35 of title 42, after public hearing pursuant to~~
22 ~~reasonable notice, which notice shall include affected persons, shall promulgate appropriate rules~~
23 ~~and regulations that may be designated to further the accomplishment of the purposes of this chapter~~
24 ~~including the formulation of procedures that may be particularly necessary for the conduct on~~
25 ~~reviews of particular types of new institutional health services or new health care equipment.~~

26 ~~(b) Review procedures promulgated in accordance with subsection (a) shall include at least~~
27 ~~the following, except that substitute procedures for the conduct of expeditious and accelerated~~
28 ~~reviews may be promulgated by the state agency in accordance with § 23-15-5:~~

29 ~~(1) Provision that the state agency established a process requiring potential applicants to~~
30 ~~file a detailed letter of intent to submit an application at least forty-five (45) days prior to the~~
31 ~~submission of an application and that the state agency shall undertake reviews in a timely fashion~~
32 ~~no less often than twice a year and give written notification to affected persons of the beginning of~~
33 ~~the review including the proposed schedule for the review, the period within which a public meeting~~
34 ~~may be held, and the manner by which notification will be provided of the time and place of any~~

1 ~~public meeting so held.~~

2 ~~(2) Provision that no more than one hundred and twenty (120) days shall elapse between~~
3 ~~initial notification of affected persons and the final decision of the state agency.~~

4 ~~(3) Provision that, if the state agency fails to act upon an application within the applicable~~
5 ~~period established in subsection (b)(2), the applicant may apply to the superior court of Providence~~
6 ~~County to require the state agency to act upon the application.~~

7 ~~(4) Provision for review and comment by the health services council and any affected~~
8 ~~person, including but not limited to those parties defined in § 23-15-2(1) and the department of~~
9 ~~business regulation, the department of behavioral healthcare, developmental disabilities and~~
10 ~~hospitals, the department of human services, health maintenance organizations, and the state~~
11 ~~professional standards review organization, on every application for the determination of need.~~

12 ~~(5) Provision that a public meeting may be held during the course of the state agency review~~
13 ~~at which any person may have the opportunity to present testimony. Procedures for the conduct of~~
14 ~~the public meeting shall be established in rules and regulations promulgated by the state agency~~
15 ~~with the advice of the health services council.~~

16 ~~(6)(i) Provision for issuance of a written decision by the state agency which shall be based~~
17 ~~upon the findings and recommendations of the health services council unless the state agency shall~~
18 ~~afford written justification for variance from that decision.~~

19 ~~(ii) In the case of any proposed new institutional health service for the provision of health~~
20 ~~services to inpatients, a state agency shall not make a finding that the proposed new institutional~~
21 ~~health service is needed, unless it makes written findings as to:~~

22 ~~(A) The efficiency and appropriateness of the use of existing inpatient facilities providing~~
23 ~~inpatient services similar to those proposed;~~

24 ~~(B) The capital and operating costs (and their potential impact on patient charges),~~
25 ~~efficiency, and appropriateness of the proposed new institutional health services; and~~

26 ~~(C) Makes each of the following findings in writing:~~

27 ~~(I) That superior alternatives to inpatient services in terms of cost, efficiency, and~~
28 ~~appropriateness do not exist and that the development of alternatives is not practicable;~~

29 ~~(II) That, in the case of new construction, alternatives to new construction (e.g.,~~
30 ~~modernization or sharing arrangements) have been considered and implemented to the maximum~~
31 ~~extent practicable;~~

32 ~~(III) That patients will experience serious problems in terms of costs, availability, or~~
33 ~~accessibility, or any other problems that may be identified by the state agency, in obtaining inpatient~~
34 ~~care of the type proposed in the absence of the proposed new service; and~~

1 ~~(IV) That, in the case of a proposal for the addition of beds for the provision of skilled~~
2 ~~nursing or intermediate care, the relationship of the addition to the plans of other agencies of the~~
3 ~~state responsible for providing and financing long term care (including home health services) has~~
4 ~~been considered.~~

5 ~~(7) Provision for the distribution of the decision of the state agency, including its findings~~
6 ~~and recommendations, to the applicant and to affected persons.~~

7 ~~(8) Provision that the state agency may approve or disapprove in whole or in part any~~
8 ~~application as submitted, but that the parties may mutually agree to a modification of any element~~
9 ~~of an application as submitted, without requiring resubmission of the application.~~

10 ~~(9)(i) Provision that any person affected may request in writing reconsideration of a state~~
11 ~~agency decision if the person:~~

12 ~~(A) Presents significant relevant information not previously considered by the state agency;~~

13 ~~(B) Demonstrates that there have been significant changes in factors or circumstances~~
14 ~~relied upon by the state agency in reaching its decision;~~

15 ~~(C) Demonstrates that the state agency has materially failed to follow its adopted~~
16 ~~procedures in reaching its decision; or~~

17 ~~(D) Provides any other basis for reconsideration that the state agency may have determined~~
18 ~~by regulation to constitute good cause.~~

19 ~~(ii) Procedures for reconsideration shall be established in regulations promulgated by the~~
20 ~~state agency with the advice of the health services council.~~

21 ~~(10) Provision that upon the request of any affected person, the decision of the state agency~~
22 ~~to issue, deny, or withdraw a certificate of need or to grant or deny an exemption shall be~~
23 ~~administratively reviewed under an appeals mechanism provided for in the rules and regulations of~~
24 ~~the state agency, with the review to be conducted by a hearing officer appointed by the director of~~
25 ~~health. The procedures for judicial review shall be in accordance with the provisions of § 42-35-~~
26 ~~15.~~

27 ~~(e) The state agency shall publish at least annually a report of reviews of new institutional~~
28 ~~health services and new health care equipment conducted, together with the findings and decisions~~
29 ~~rendered in the course of the reviews. The reports shall be published on or about February 1 of each~~
30 ~~year and shall contain evaluations of the prior year's statutory changes where feasible.~~

31 ~~(d) All applications reviewed by the state agency and all written materials pertinent to state~~
32 ~~agency review, including minutes of all health services council meetings, shall be accessible to the~~
33 ~~public upon request.~~

34 ~~(e) In the case of review of proposals by health care facilities who by contractual~~

1 ~~agreement, chapter 19 of title 27, or other statute are required to adhere to an annual schedule of~~
2 ~~budget or reimbursement determination to which the state is a party, the state budget office, the~~
3 ~~office of the health insurance commissioner, and hospital service corporations organized under~~
4 ~~chapter 19 of title 27 shall forward to the health services council within forty five (45) days of the~~
5 ~~initiation of the review of the proposals by the health services council under § 23-15-4(f)(1):~~

6 ~~(1) A cost impact analysis of each proposal which analysis shall include, but not be limited~~
7 ~~to, consideration of increases in operating expenses, per diem rates, health care insurance~~
8 ~~premiums, and public expenditures; and~~

9 ~~(2) Comments on acceptable interest rates and minimum equity contributions and/or~~
10 ~~maximum debt to be incurred in financing needed proposals.~~

11 ~~(f) The health services council shall not make a recommendation to the state agency that a~~
12 ~~proposal be approved unless it is found that the proposal is affordable to the people of the state. In~~
13 ~~determining whether or not a proposal is affordable, the health service council shall consider the~~
14 ~~condition of the state's economy, the statements of authorities and/or parties affected by the~~
15 ~~proposals, and any other factors that it may deem appropriate.~~

16 **23-15-6.1. Action subsequent to review.**

17 ~~Development of any new institutional health services or new health care equipment~~
18 ~~approved by the state agency must be initiated within one year of the date of the approval and may~~
19 ~~not exceed the maximum amount of capital expenditures specified in the decision of the state~~
20 ~~agency without prior authorization of the state agency. The state agency, with the advice of the~~
21 ~~health services council, shall adopt procedures for the review of the applicant's failure to develop~~
22 ~~new institutional health services or new health care equipment within the timeframe and capital~~
23 ~~limitation stipulated in this section, and for the withdrawal of approval in the absence of a good~~
24 ~~faith effort to meet the stipulated timeframe.~~

25 **23-15-7. Health services council.**

26 ~~The health services council, established in accordance with chapter 17 of this title, shall~~
27 ~~function as the advisory body to the state agency in discharging the purpose of this chapter.~~

28 **23-15-8. Funds for administration.**

29 ~~There is authorized to be appropriated from the state treasury those sums that may be~~
30 ~~necessary for the purposes of administering this chapter.~~

31 **23-15-9. Severability.**

32 ~~If any provision of this chapter or the application of any provision of this chapter to any~~
33 ~~person or circumstances shall be held invalid, the invalidity shall not affect the provisions or~~
34 ~~application of this chapter which can be given effect without the invalid provision or application,~~

1 ~~and to this end the provisions of the chapter are declared to be severable.~~

2 ~~**23-15-10. Application fees.**~~

3 ~~The state agency shall require that any applicant for certificate of need submit an~~
4 ~~application fee prior to requesting any review of matters pursuant to the requirements of this~~
5 ~~chapter; except that health care facilities owned and operated by the state of Rhode Island shall be~~
6 ~~exempt from this application fee requirement. The application fee shall be paid by check made~~
7 ~~payable to the general treasurer. Except for applications that propose new or expanded tertiary or~~
8 ~~specialty care services as defined in subdivision 23-15-2(10)(vi), submission of any application~~
9 ~~filed in accordance with § 23-15-4(d) shall include an application fee of five hundred dollars (\$500)~~
10 ~~per application plus an amount equal to one quarter of one percent (0.25%) of the total capital~~
11 ~~expenditure costs associated with the application. For an application filed in accordance with the~~
12 ~~requirements of § 23-15-5 (Expeditious review), the application shall include an application~~
13 ~~processing fee of seven hundred and fifty dollars (\$750) per application plus an amount equal to~~
14 ~~one quarter of one percent (0.25%) of the total capital expenditure costs associated with the~~
15 ~~application. Applications that propose new or expanded tertiary or specialty care services as defined~~
16 ~~in subdivision 23-15-2(10)(vi), shall include an application fee of ten thousand dollars (\$10,000)~~
17 ~~plus an amount equal to one quarter of one percent (0.25%) of the total capital expenditure costs~~
18 ~~associated with the application. Application fees shall be non-refundable. All fees received~~
19 ~~pursuant to this chapter shall be deposited in the general fund.~~

20 ~~**23-15-11. Reports, use of experts, all costs and expenses.**~~

21 ~~The state agency may in effectuating the purposes of this chapter engage experts or~~
22 ~~consultants including, but not limited to, actuaries, investment bankers, accountants, attorneys, or~~
23 ~~industry analysts. Except for privileged or confidential communications between the state agency~~
24 ~~and engaged attorneys, all copies of final reports prepared by experts and consultants, and all costs~~
25 ~~and expenses associated with the reports, shall be public. All costs and expenses incurred under~~
26 ~~this provision shall be the responsibility of the applicant in an amount to be determined by the~~
27 ~~director as he or she shall deem appropriate. No application made pursuant to the requirements of~~
28 ~~this chapter shall be considered complete unless an agreement has been executed with the director~~
29 ~~for the payment of all costs and expenses in accordance with this section. The maximum cost and~~
30 ~~expense to an applicant for experts and/or consultants that may be required by the state agency shall~~
31 ~~be twenty thousand dollars (\$20,000); provided however, that the maximum amount shall be~~
32 ~~increased by regulations promulgated by the state agency on or after January 1, 2008 by the most~~
33 ~~recently available annual increase in the federal consumer price index as determined by the state~~
34 ~~agency.~~

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

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LC001034
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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
HEALTHCARE EQUIPMENT AND NEW INSTITUTIONAL HEALTH SERVICES

1 This act would repeal the certificate of need process statutes which are used by the
2 department of health to determine the need for new health care equipment and new institutional
3 health services.

4 This act would take effect upon passage.

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