

2019 -- H 5695 SUBSTITUTE A

LC001571/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO HEALTH AND SAFETY - THE HOSPITAL CONVERSIONS ACT

Introduced By: Representative Raymond H. Johnston

Date Introduced: February 27, 2019

Referred To: House Corporations

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-17.14-28, 23-17.14-30 and 23-17.14-34 of the General Laws in
2 Chapter 23-17.14 entitled "The Hospital Conversions Act" are hereby amended to read as
3 follows:

4 **23-17.14-28. Concurrent approval -- License.**

5 (a) The director may consider the requirement of this chapter and the requirements of §§
6 23-17-1 -- 23-17-45 together upon completion of the initial application. The director may
7 approve, approve with conditions, or disapprove one or both requests filed pursuant to this
8 chapter, including expedited review under section 12.1, and §§ 23-17-1 -- 23-17-45. The
9 approvals of the director required by this chapter shall be subject to chapter 35 of title 42. For any
10 conversion subject to this chapter, the director may combine any hearings required by this chapter
11 with any hearings on similar or related matters required by §§ 23-17-1 -- 23-17-45 and shall
12 consider issues of market share especially as they affect quality, access, and affordability of
13 services.

14 (b) Any approval of a conversion involving a for-profit corporation as an acquiror shall
15 be subject to any conditions as determined by the director of health, provided those conditions
16 relate to the purpose of this chapter. Said conditions may include, but not be limited to, the
17 conditions contained in this subsection. In the event the director determines that one or more of
18 the conditions contained in this subsection are not appropriate or desirable in a particular
19 conversion, the director shall include the rationale for not including such condition(s) in any

1 approval.

2 (1) Maintain a governing body for each converted hospital whose membership shall
3 include uncompensated, independent individuals who reside in Rhode Island;

4 (2) Make a financially reasonable contribution to support the state's coordinated health
5 planning process;

6 (3) Adhere to reasonable restrictions on financial incentives to patient or health plan
7 enrollees to receive hospital services outside of the state of Rhode Island;

8 (4) Keep the new hospital open and operational for a reasonable minimum period of time;

9 (5) Make a reasonable minimum investment to support primary care in the Rhode Island
10 communities served by the new hospital;

11 (6) Not enter into any contract or other service or purchasing arrangements with an
12 affiliated legal entity except for contracts or arrangements to provide services or products that are
13 reasonably necessary to accomplish the health care purposes of the relevant hospital and for
14 compensation that is consistent with fair market value for the services actually rendered, or the
15 products actually provided;

16 (7) Report to the director on annual distributions of profit to owners; and

17 (8) Require that any corporate allocation, or equivalent charge, to any affiliated
18 organization(s) in any hospital fiscal year not exceed reasonable fair market value for the services
19 rendered or the assets purchased or leased from such affiliate.

20 (c) Any approval of a conversion involving a for-profit corporation as an acquiror shall
21 be subject to any conditions as determined by the attorney general, provided those conditions
22 relate to the purpose of this chapter. Said conditions may include, but not be limited to, the
23 acquiror's adherence to a minimum investment to protect the assets, financial health, and well-
24 being of the new hospital and for community benefit. In the event the attorney general determines
25 that the conditions contained in this subsection are not appropriate or desirable in a particular
26 conversion, the attorney general shall include the rationale for not including such condition(s) in
27 any approval.

28 (d) For a period of ~~three (3)~~ five (5) years following the effective date of the conversion,
29 when approval of a conversion involves either a not-for-profit or a for-profit corporation as an
30 acquiror:

31 (1) The acquiror shall file reports with the department and the attorney general on or
32 before March 1st of each calendar year detailing compliance with the conditions in subsection (b)
33 and any other conditions on the conversion approval or license of the new hospital. Failure to
34 comply with any of such conditions or the charity care requirements contained in § 23-17.14-15

1 shall be cause for penalties to be applied in accordance with § 23-17.14-30;

2 (2) The department of health and the department of attorney general shall monitor, assess
3 and evaluate the acquiror's compliance with all of the conditions of approval, as well as annually
4 review the impact of the conversion on health care costs and services within the communities
5 served; ~~and~~

6 (3) The acquiror shall pay for the costs of the department of health and the department of
7 attorney general in performing such monitoring, evaluation and assessment in an amount to be
8 determined by the attorney general or the director as they deem appropriate, which should be
9 placed in escrow during the term of the monitoring period. No application for a conversion made
10 pursuant to the requirements of this chapter shall be approved unless an agreement has been
11 executed with the attorney general and the director for the payment of reasonable costs in
12 accordance with this section; ~~and~~

13 (4) The department and/or the attorney general may seek immediate relief in the superior
14 court to enforce any conditions of approval of a conversion, and may impose penalties for
15 noncompliance pursuant to § 23-17.14-30.

16 **23-17.14-30. Failure to comply -- Penalties.**

17 If any person knowingly violates or fails to comply with any provision of this chapter or
18 willingly or knowingly gives false or incorrect information:

19 (1) The director or attorney general may, after notice and opportunity for a prompt and
20 fair hearing to ~~the applicant or licensee~~ one or more transacting parties, deny, suspend, or revoke
21 a license, or in lieu of suspension or revocation of the license, may order the licensee to admit no
22 additional persons to the facility, to provide health services to no additional persons through the
23 facility, or to take any corrective action necessary to secure compliance under this chapter, ~~and~~
24 impose a fine of not more than two million dollars (\$2,000,000); ~~or~~ and

25 (2) ~~The superior court may, after notice and opportunity for a prompt and fair hearing,~~
26 ~~may impose a fine of not more than one million dollars (\$1,000,000) or impose a prison term of~~
27 ~~not more than five (5) years.~~ The attorney general may, after notice and opportunity for a prompt
28 and fair hearing to one or more transacting parties, take any corrective action necessary to secure
29 compliance under this chapter, and impose a fine of not more than two million dollars
30 (\$2,000,000).

31 **23-17.14-34. Judicial review.**

32 (a) ~~Notwithstanding any other provision of the general laws, any~~ Any transacting party
33 aggrieved by a final order of the department of health or the attorney general under this chapter
34 may seek judicial review ~~by original action filed~~ in the superior court in accordance with § 42-35-

1 ~~15. Any preliminary, procedural, or intermediate agency act or ruling with respect to the filing of~~
2 ~~an application for conversion, including the completeness of the application, confidentiality of~~
3 ~~any information or documents produced in connection with a conversion, approval or disapproval~~
4 ~~of a conversion and conditions or restrictions proposed or determined with the respect to the~~
5 ~~approval of a proposed conversion, is immediately reviewable.~~

6 (b) ~~Any action brought under this section shall be given priority by the superior court.~~

7 (c) ~~In performing such review the superior court shall consider and balance the~~
8 ~~reasonable interests of the transacting parties and the reasonable interest of the citizens of the~~
9 ~~state in a safe, accessible, and affordable healthcare system.~~

10 (d) ~~The court may affirm the decision of the agency or remand the case for further~~
11 ~~proceedings, or it may reverse or modify the decision if substantial rights of the appellant have~~
12 ~~been prejudiced because the administrative findings, inferences, conclusions, or decisions are:~~

13 (1) ~~Unreasonable;~~

14 (2) ~~In violation of constitutional or statutory provisions;~~

15 (3) ~~In excess of the statutory authority of the agency;~~

16 (4) ~~Made upon unlawful procedure;~~

17 (5) ~~Affected by other error or law;~~

18 (6) ~~Clearly erroneous in view of the reliable, probative, and substantial evidence on the~~
19 ~~whole record; or~~

20 (7) ~~Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted~~
21 ~~exercise of discretion.~~

22 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 - THE HOSPITAL CONVERSIONS ACT

1 This act would extend the monitoring of hospital conversions relating to not-for-profit
2 and for-profit corporations from three (3) to five (5) years, increase the monetary fine for
3 violations from one million dollars (\$1,000,000) to two million dollars (\$2,000,000) and simplify
4 judicial review provisions of hospital conversions.

5 This act would take effect upon passage.

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