

**[23 R.I. Gen. Laws § 23-15-4.]**

§ 23-15-4. Review and approval of new health care equipment and new institutional health services: Health Care Certificate of Need Act of Rhode Island

(a) No health care provider or health care facility shall develop or offer new health care equipment or new institutional health services in Rhode Island, the magnitude of which exceeds the limits defined by this chapter, without prior review by the health services council and approval by the state agency; except that review by the health services council may be waived in the case of expeditious reviews conducted in accordance with § 23-15-5, and except that health maintenance organizations which fulfill criteria to be established in rules and regulations promulgated by the state agency with the advice of the health services council shall be exempted from the review and approval requirement established in this section upon approval by the state agency of an application for exemption from the review and approval requirement established in this section which contain any information that the state agency may require to determine if the health maintenance organization meets the criteria.

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

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

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

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

- (1) The relationship of the proposal to state health plans that may be formulated by the state agency;
- (2) The impact of approval or denial of the proposal on the future viability of the applicant and of the providers of health services to a significant proportion of the population served or proposed to be served by the applicant;
- (3) The need that the population to be served by the proposed equipment or services has for the equipment or services;
- (4) The availability of alternative, less costly, or more effective methods of providing services or equipment, including economies or improvements in service that could be derived from feasible cooperative or shared services;
- (5) The immediate and long term financial feasibility of the proposal, as well as the probable impact of the proposal on the cost of, and charges for, health services of the applicant;

- (6) The relationship of the services proposed to be provided to the existing health care system of the state;
  - (7) The impact of the proposal on the quality of health care in the state and in the population area to be served by the applicant;
  - (8) The availability of funds for capital and operating needs for the provision of the services or equipment proposed to be offered;
  - (9) The cost of financing the proposal including the reasonableness of the interest rate, the period of borrowing, and the equity of the applicant in the proposed new institutional health service or new equipment;
  - (10) The relationship, including the organizational relationship of the services or equipment proposed, to ancillary or support services;
  - (11) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing within the state;
  - (12) Special needs of entities such as medical and other health professional schools, multidisciplinary clinics, and specialty centers; also, the special needs for and availability of osteopathic facilities and services within the state;
  - (13) In the case of a construction project:
    - (i) The costs and methods of the proposed construction,
    - (ii) The probable impact of the construction project reviewed on the costs of providing health services by the person proposing the construction project; and
    - (iii) The proposed availability and use of safe patient handling equipment in the new or renovated space to be constructed.
  - (14) Those appropriate considerations that may be established in rules and regulations promulgated by the state agency with the advice of the health services council;
  - (15) The potential of the proposal to demonstrate or provide one or more innovative approaches or methods for attaining a more cost effective and/or efficient health care system;
  - (16) The relationship of the proposal to the need indicated in any requests for proposals issued by the state agency;
  - (17) The input of the community to be served by the proposed equipment and services and the people of the neighborhoods close to the health care facility who are impacted by the proposal;
  - (18) The relationship of the proposal to any long-range capital improvement plan of the health care facility applicant.
  - (19) Cost impact statements forwarded pursuant to subsection 23-15-6(e).
- (f) In conducting its review, the health services council shall perform the following:
- (1) Within one hundred and fifteen (115) days after initiating its review, which must be commenced no later than thirty-one (31) days after the filing of an application, the health services council shall determine as to each proposal whether the applicant has demonstrated need at the time and place and under the circumstances proposed, and in doing so may apply the criteria and standards set forth in subsection (e) of this section; provided however, that a determination of need shall not alone be sufficient to warrant a

recommendation to the state agency that a proposal should be approved. The director shall render his or her decision within five (5) days of the determination of the health services council.

(2) Prior to the conclusion of its review in accordance with § 23-15-6(e), the health services council shall evaluate each proposal for which a determination of need has been established in relation to other proposals, comparing proposals with each other, whether similar or not, establishing priorities among the proposals for which need has been determined, and taking into consideration the criteria and standards relating to relative need and affordability as set forth in subsection (e) of this section and § 23-15-6(f).

(3) At the conclusion of its review, the health services council shall make recommendations to the state agency relative to approval or denial of the new institutional health services or new health care equipment proposed; provided that:

(i) The health services council shall recommend approval of only those proposals found to be affordable in accordance with the provisions of § 23-15-6(f); and

(ii) If the state agency proposes to render a decision that is contrary to the recommendation of the health services council, the state agency must render its reasons for doing so in writing.

(g) Approval of new institutional health services or new health care equipment by the state agency shall be subject to conditions that may be prescribed by rules and regulations developed by the state agency with the advice of the health services council, but those conditions must relate to the considerations enumerated in subsection (e) and to considerations that may be established in regulations in accordance with subsection (e)(14).

(h) The offering or developing of new institutional health services or health care equipment by a health care facility without prior review by the health services council and approval by the state agency shall be grounds for the imposition of licensure sanctions on the facility, including denial, suspension, revocation, or curtailment or for imposition of any monetary fines that may be statutorily permitted by virtue of individual health care facility licensing statutes.

(i) No government agency and no hospital or medical service corporation organized under the laws of the state shall reimburse any health care facility or health care provider for the costs associated with offering or developing new institutional health services or new health care equipment unless the health care facility or health care provider has received the approval of the state agency in accordance with this chapter. Government agencies and hospital and medical service corporations organized under the laws of the state shall, during budget negotiations, hold health care facilities and health care providers accountable to operating efficiencies claimed or projected in proposals which receive the approval of the state agency in accordance with this chapter.

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