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## **Hospital Conversions Act (RIGL Chapter 23-17.14) and Licensing of Health Care Facilities Act (RIGL 23-17): Summary of the Review and Decision Process**

### **BACKGROUND**

Since 1997, certain transfers in ownership, assets, membership interest, authority or control of a hospital in Rhode Island requires approval by both the Department of Health (RIDOH) and the Rhode Island Department of the Attorney General (RIAG) under the authority of the Hospital Conversions Act (Chapter 23-17.14).

Additionally, certain transfers in ownership, assets, membership interest, authority or control of a hospital in Rhode Island requires prior Change in Effective Control approval by the Department of Health with a recommendation from the Health Services Council under the authority of Licensing of Health Care Facilities Act (RIGL 23-17).

### **PURPOSE OF HOSPITAL CONVERSIONS ACT**

<http://webserver.rilin.state.ri.us/Statutes/TITLE23/23-17.14/INDEX.HTM>

- Assure the viability of a safe, accessible and affordable healthcare system that is available to all of the citizens of the state;
- To establish a process to review whether for-profit hospitals will maintain, enhance, or disrupt the delivery of healthcare in the state and to monitor hospital performance to assure that standards for community benefits continue to be met;
- To establish a review process and criteria for review of hospital conversions;
- To clarify the jurisdiction and the authority of the department of health to protect public health and welfare and the department of attorney general to preserve and protect public and charitable assets in reviewing both hospital conversions which involve for-profit corporations and hospital conversions which include only not-for-profit corporations; and
- To provide for independent foundations to hold and distribute proceeds of hospital conversions consistent with the acquiree's original purpose or for the support and promotion of health care and social needs in the affected community.

### **PURPOSE OF LICENSING OF HEALTH CARE FACILITIES ACT**

<http://webserver.rilin.state.ri.us/Statutes/TITLE23/23-17/INDEX.HTM>

- For the care and treatment of individuals in health care facilities;
- For the maintenance and operation of health care facilities which in the light of advancing knowledge, will promote appropriate access and safe and adequate treatment for individuals receiving health care facility services; and
- For the encouragement of quality improvement in all aspects of the operations of health care facilities.



## TIMELINE OVERVIEW

	Hospital Conversion		Change in Effective Control
	Regular	Expedited	
<b>Review Type</b>	Administrative with confidentiality	Administrative with confidentiality	Public
<b>Review Conducted by</b>	RIDOH + RIAG (concurrently but separately)	RIDOH + RIAG (concurrently but separately)	RIDOH with recommendation from the Health Services Council
<b>Review trigger (transfer of ownership, control, etc.)</b>	20% or greater		greater than 50%
<b>Assessment by staff of application for completeness</b>	30 calendar days	not specified	not specified
<b>Resubmission by applicant of application</b>	30 working days	not specified	not specified
<b>Reassessment by staff of application for completeness*</b>	10 working days*	not specified	10 working days**
<b>Confidentiality determination by AG</b>	Within 30 working days after initiation of review		N/A
<b>Public Notification</b>	Within 30 working days after initiation of review	Within 20 working days after initiation of review	Upon initiation of review
<b>Informational Public Meeting (at least 1)</b>	Within 60 days after public notice	not specified	N/A
<b>Public meetings before the Health Services Council (per Open Meetings Act)</b>	N/A		As often as needed after initiation of review
<b>Review and Decision:</b>	120 days	90 days	90 days

\*if resubmitted application is deemed incomplete, the process may be restarted

\*\*if the resubmitted application is deemed incomplete, then the reassessment time frame is not specified

## CONFIDENTIALITY DETERMINATION AND PUBLICATION OF APPLICATIONS:

- RIAG determines which components of the HCA application are confidential. The non- confidential portion of the application would be posted on-line at:  
<http://www.health.ri.gov/programs/hospitalconversionsmerger/index.php>
- RIAG’s confidentiality ruling on HCA does not apply to the Change in Effective Control application which would be posted on-line at:  
<http://www.health.ri.gov/programs/healthsystemsdevelopment/index.php>



**MEETINGS:**

- For regular HCA review, RIDOH is required to hold and advertise at least one informational public meeting open to the public, and to provide for a written public comment period. A public informational meeting is not specified for an expeditious HCA review.
- For the Change in Effective Control, the Health Services Council will meet pursuant to the Open Meetings Act with meetings open to the public for comments.

**RIDOH’S REVIEW CRITERIA**

	Hospital Conversion		Change in Effective Control
	Regular	Expeditious	
<b>Suitability &amp; Track Record</b>	Whether the character, commitment, competence, and standing in the community, or any other communities served by the proposed transacting parties, are satisfactory;		the character, commitment, competence and standing in the community of the proposed owners, operators or directors of the hospital as evidenced by...
<b>Access, Quality, Safety, &amp; Affordable Care</b>	Whether sufficient safeguards are included to assure the affected community continued access to affordable care;		the extent to which the facility will continue to provide safe and adequate treatment for individuals receiving the facility's services and the extent to which the facility will encourage quality improvement in all aspects of the operation of the health care facility as evidenced by...
	Whether the transacting parties have provided clear and convincing <sup>1</sup> evidence that the new hospital will provide health care and appropriate access with respect to traditionally underserved populations in the affected community;		the extent to which the facility will continue to provide appropriate access with respect to traditionally underserved populations as evidenced by...
<b>Services, Balance, Market Share, Affordability, &amp; Financial Viability</b>	Whether the conversion demonstrates that the public interest will be served considering the essential medical services needed to provide safe and adequate treatment, appropriate access and balanced health care delivery to the residents of the state; and		in consideration of the proposed continuation or termination of emergency, primary care and/or other core health care services by the facility:
	Consider issues of market share especially as they affect quality, access, and affordability of services <sup>2</sup>		And in cases where the application involves a merger, consolidation or otherwise legal affiliation of two or more health care facilities, the proposed immediate and long term plans of such health care facilities with respect to the health care programs to be offered and health care services to be provided by such health care facilities as a result of the merger, consolidation or otherwise legal affiliation.
			the extent to which the facility will continue, without material effect on its viability at the time of change of owner, operator, or lessee, to provide safe and adequate treatment for individual's receiving the facility's services as evidenced by:

<sup>1</sup> for non-profit corporations the consideration is ‘satisfactory’ rather than ‘clear and convincing’

<sup>2</sup> pursuant to section 23-17.14-28 (a) of the Rhode Island General Laws



Additionally criteria, only for Hospital Conversion:

Hospital Conversion	
<b>Referral Safeguards</b>	Whether procedures or safeguards are assured to insure that ownership interests will not be used as incentives for hospital employees or physicians to refer patients to the hospital;
<b>Workforce</b>	Whether the transacting parties have made a commitment to assure the continuation of collective bargaining rights, if applicable, and retention of the workforce;
	Whether the transacting parties have appropriately accounted for employment needs at the facility and addressed workforce retraining needed as a consequence of any proposed restructuring;
<b>Prior Conditions (for-profit only)</b>	Whether the acquiror has demonstrated that it has satisfactorily met the terms and conditions of approval for any previous conversion pursuant to an application submitted under § 23-17.14-6.

For full criteria language for Change in Effective Control process, please refer to section 4.4.2 of the Rules and Regulations for Licensing of Hospitals (216-RICR-40-10-4):

[https://risos-apa-production-public.s3.amazonaws.com/DOH/REG\\_9979\\_20180806191311.pdf](https://risos-apa-production-public.s3.amazonaws.com/DOH/REG_9979_20180806191311.pdf)

### **DECISION:**

RIDOH'S decision under the HCA and Change in Effective Control processes may be:

- To approve the application,
- To reject the application, or
- To approve the application with conditions

**The information in this document is an unofficial synopsis of certain provisions of the Hospital Conversion Act, Chapter 23-17.14 of the Rhode Island General Laws (RIGL) and the Health Facilities Licensing Act, Chapter 23-17-14 RIGL, and should not be considered a formal interpretation or legal analysis issued by RIDOH. This synopsis should not be relied upon for completeness or accuracy as a legal document.**

