

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 344
Final Reading

Introduced by Sullivan, 41.

Read first time January 18, 2013

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Nebraska Health Care Certificate of Need
2 Act; to amend section 71-5829.04, Reissue Revised
3 Statutes of Nebraska; to change provisions relating to
4 the moratorium on long-term care beds; to repeal the
5 original section; and to declare an emergency.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-5829.04, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 71-5829.04 (1) All long-term care beds which require a
4 certificate of need under section 71-5829.03 are subject to a
5 moratorium unless one of the following exceptions applies:

6 (a) An exception to the moratorium may be granted if the
7 department establishes that the needs of individuals whose medical
8 and nursing needs are complex or intensive and are above the level of
9 capabilities of staff and above the services ordinarily provided in a
10 long-term care bed are not currently being met by the long-term care
11 beds licensed in the health planning region; or

12 (b) If the average occupancy for all licensed long-term
13 care beds located in a ~~twenty-five mile~~ twenty-five-mile radius of
14 the proposed site ~~have~~ has exceeded ninety percent occupancy during
15 the most recent three consecutive calendar quarters as reported at
16 the time of the application filing and there is a long-term care bed
17 need as determined under this section, the department may grant an
18 exception to the moratorium and issue a certificate of need. If the
19 department determines average occupancy for all licensed long-term
20 care beds located in a ~~twenty-five mile~~ twenty-five-mile radius of
21 the proposed site has not exceeded ninety percent occupancy during
22 the most recent three consecutive calendar quarters as reported at
23 the time of the application filing, the department shall deny the
24 application unless the department determines that all long-term care
25 beds in a licensed facility located in a city of the second class or

1 village have been sold or transferred to another facility or
2 facilities located outside of the twenty-five-mile radius of the city
3 or village resulting in no licensed long-term care beds within the
4 corporate limits of the city of the second class or village. In such
5 case, the department shall waive the certificate of need limitations
6 of this subdivision for development and licensure of a long-term care
7 facility by a political subdivision or a nonprofit organization in
8 such a city of the second class or village if the political
9 subdivision or nonprofit organization agrees not to sell long-term
10 care beds licensed under such waiver or increase the number of long-
11 term care beds as allowed under subdivision (2) of section 71-5829.03
12 until five years have passed after such beds are first occupied. The
13 number of licensed long-term care beds in the facility shall be
14 limited to the number of long-term care beds sold or transferred as
15 described in this subdivision.

16 (2) The department shall review applications which
17 require a certificate of need under section 71-5829.03 and determine
18 if there is a need for additional long-term care beds as provided in
19 this section. No such application shall be approved if the current
20 supply of licensed long-term care beds in the health planning region
21 of the proposed site exceeds the long-term care bed need for that
22 health planning region. For purposes of this section:

23 (a) Long-term care bed need is equal to the population of
24 the health planning region, multiplied by the utilization rate of
25 long-term care beds within the health planning region, and the result

1 divided by the minimum occupancy rate of long-term care beds within
2 the health planning region;

3 (b) Population is the most recent projection of
4 population for the health planning region for the year which is
5 closest to the fifth year immediately following the date of the
6 application. The applicant shall provide such projection as part of
7 the application using data from the University of Nebraska-Lincoln
8 Bureau of Business Research or other source approved by the
9 department;

10 (c) The utilization rate is the number of people using
11 long-term care beds living in the health planning region in which the
12 proposed project is located divided by the population of the health
13 planning region; and

14 (d) The minimum occupancy rate is ninety-five percent for
15 health planning regions which are part of or contain a Metropolitan
16 Statistical Area as defined by the United States Bureau of the
17 Census. For all other health planning regions in the state, the
18 minimum occupancy rate is ninety percent.

19 (3) To facilitate the review and determination required
20 by this section, each health care facility with long-term care beds
21 shall report on a quarterly basis to the department the number of
22 residents at such facility on the last day of the immediately
23 preceding quarter on a form provided by the department. Such report
24 shall be provided to the department no later than ninety days after
25 the last day of the immediately preceding quarter. The department

1 shall provide the occupancy data collected from such reports upon
2 request. Any facility failing to timely report such information shall
3 be ineligible for any exception to the requirement for a certificate
4 of need under section 71-5830.01 and any exception to the moratorium
5 imposed under this section and may not receive, transfer, or relocate
6 long-term care beds.

7 Sec. 2. Original section 71-5829.04, Reissue Revised
8 Statutes of Nebraska, is repealed.

9 Sec. 3. Since an emergency exists, this act takes effect
10 when passed and approved according to law.