

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1002**

Introduced by Sullivan, 41.

Read first time January 17, 2012

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 exceeded ninety percent occupancy during the  
15 most recent three consecutive calendar quarters as reported at the  
16 time of the application filing and there is a long-term care bed need  
17 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.

9           (2) The department shall review applications which  
10 require a certificate of need under section 71-5829.03 and determine  
11 if there is a need for additional long-term care beds as provided in  
12 this section. No such application shall be approved if the current  
13 supply of licensed long-term care beds in the health planning region  
14 of the proposed site exceeds the long-term care bed need for that  
15 health planning region. For purposes of this section:

16           (a) Long-term care bed need is equal to the population of  
17 the health planning region, multiplied by the utilization rate of  
18 long-term care beds within the health planning region, and the result  
19 divided by the minimum occupancy rate of long-term care beds within  
20 the health planning region;

21           (b) Population is the most recent projection of  
22 population for the health planning region for the year which is  
23 closest to the fifth year immediately following the date of the  
24 application. The applicant shall provide such projection as part of  
25 the application using data from the University of Nebraska-Lincoln

1 Bureau of Business Research or other source approved by the  
2 department;

3 (c) The utilization rate is the number of people using  
4 long-term care beds living in the health planning region in which the  
5 proposed project is located divided by the population of the health  
6 planning region; and

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

12 (3) To facilitate the review and determination required  
13 by this section, each health care facility with long-term care beds  
14 shall report on a quarterly basis to the department the number of  
15 residents at such facility on the last day of the immediately  
16 preceding quarter on a form provided by the department. Such report  
17 shall be provided to the department no later than ninety days after  
18 the last day of the immediately preceding quarter. The department  
19 shall provide the occupancy data collected from such reports upon  
20 request. Any facility failing to timely report such information shall  
21 be ineligible for any exception to the requirement for a certificate  
22 of need under section 71-5830.01 and any exception to the moratorium  
23 imposed under this section and may not receive, transfer, or relocate  
24 long-term care beds.

25 Sec. 2. Original section 71-5829.04, Reissue Revised

1 Statutes of Nebraska, is repealed.

2                   Sec. 3. Since an emergency exists, this act takes effect

3 when passed and approved according to law.