

AMENDMENTS TO LB320

(Amendments to Final Reading copy)

Introduced by Davis, 43.

1           1. Insert the following new section:

2           Sec. 14. Section 71-5829.04, Revised Statutes Cumulative Supplement,  
3   2014, is amended to read:

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

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

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

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

14 (c) When a long-term care facility has been placed in receivership  
15 and its license is terminated without the licensed beds having been sold  
16 or transferred to another person, the department may grant an exception  
17 to the moratorium and issue a certificate of need to a political  
18 subdivision, a joint entity under the Interlocal Cooperation Act, or a  
19 joint public agency under the Joint Public Agency Act. The certificate of  
20 need shall be limited to the number of licensed beds that were placed in  
21 the receivership.

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

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

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

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

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

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

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

30 Sec. 15. Original section 71-5829.04, Revised Statutes Cumulative  
31 Supplement, 2014, is repealed.

- 1           2. On page 1, line 2, strike "and 68-1109" and insert "68-1109, and
- 2   71-5829.04".
- 3           3. On page 10, line 26, strike "and 9" and insert "9, 14, and 15".
- 4           4. Renumber the remaining sections accordingly.