RHODE ISLAND GOVERNMENT REGISTER

PUBLIC NOTICE OF PROPOSED RULEMAKING

ATTORNEY GENERAL

Title of Rule: Rules and Regulations Pertaining to Hospital Conversions Act

Rule Identifier: 110-RICR-30-00-3

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice:

End of Public Comment: *30-days from public notice

Rulemaking Authority:

R.I. Gen. Laws §§ 23-17.14-30; 23-17.14-32(b).

Summary of Rulemaking Action:

The Hospital Conversions Act ("HCA" or the "Act") authorizes the Attorney General, pursuant to R.I. Gen. Laws § 23-17.14-30, to take any corrective action necessary to secure compliance and impose fines on violators after notice and opportunity for a prompt and fair hearing. The proposed regulation will enable expeditious enforcement of the HCA while establishing a fair, transparent, and viable framework for due process and statutory notice rights. The HCA authorizes fines up to $2 million per violation for knowingly violating or failing to comply with any provision of this chapter or willingly or knowingly giving false or incorrect information. However, the current regulations do not establish an explicit framework for the imposition of penalties. The proposed regulation specifies a process by which the Attorney General would provide parties with notice of violations and impose fines thereafter. It also sets forth a penalty matrix to clearly outline how the penalty will be calculated based on the type of violation and the extent of the violator's deviation from compliance. The proposed regulation incorporates the procedures set forth in in R.I. Gen. Laws Chapter 42-35, the Rhode Island Administrative Procedures Act, for the disposition of "contested cases". The proposed regulation will ensure a fair and transparent process for issuing penalties under the HCA.

Additional Information and Public Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until _____ by contacting the appropriate party at the address listed below:

Farren Fuquea

Rules Coordinator

Office of the Attorney General

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In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by a governmental agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of the publication of this notice.

Regulatory Analysis Summary and Supporting Documentation

The Hospital Conversions Act authorizes the Office of the Attorney General (the "Office"), pursuant to R.I. Gen. Laws § 23-17.14-30, to take any corrective action necessary to secure compliance and impose fines on violators after notice and opportunity for a prompt and fair hearing. The Act specifically authorizes the Attorney General to impose a fine of not more than two million dollars ($2,000,000).

Although the HCA and the existing regulations, promulgated pursuant to § 23-17.14-32(b), authorize enforcement action and the imposition of fines, the current regulations do not set forth a clear, comprehensive, and transparent framework for determining and imposing penalties. The proposed amendments address this gap by clarifying the procedures governing the imposition of fines, setting forth nonexhaustive examples of violations to which penalties may apply, and establishing a penalty matrix to guide the determination of penalty amounts based on the nature of the violation and the extent of the violator's deviation from compliance. These amendments do not create new statutory penalty authority; rather, they clarify and codify certain longstanding policies and procedures used by the Attorney General to exercise its existing authority to enforce the HCA in a manner that promotes consistency, transparency, and fairness.

The proposed amendments reflect internal review and deliberation regarding methods for improving compliance with the HCA and have been developed to strengthen the existing regulatory framework governing enforcement. In development of the proposed amendments, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small businesses. Amending these regulations will not add any financial cost to the agency or the public at large and the benefits of a clearer, more consistent, and transparent penalty framework set forth in regulation far outweighs any associated costs or concerns. The proposed amendments further the objectives of the authorizing legislation and are expected to provide greater overall benefits than alternative regulatory approaches. We note that the use of the term "penalty" throughout merely reflects the statutory text and is not intended to suggest any resulting fine is punitive in nature.

Additionally, the proposed amendments reflect the Office's review of existing penalty frameworks in Rhode Island law, including regulations governing the imposition of fines

for environmental violations administered by the Department of Environmental Management and fines for health and safety violations administered by the Department of Health, among others. Further, the Office considered the use of penalty matrices by federal agencies to affix penalty amounts. These established approaches informed the development of a consistent framework specifically tailored to the HCA and its statutory requirements.

The proposed amendments ensure that the objectives of the HCA continue to be effectively achieved through a clear, consistent, and transparent framework for determining and imposing penalties.

For full regulatory analysis or supporting documentation contact the rules coordinator listed above.