

**135C.35A Moratorium — new construction or increase in bed capacity — nursing facilities.**

1. Beginning July 1, 2023, and ending no later than June 30, 2026, the department shall impose for an initial period of twelve months a temporary moratorium on submission of applications for new construction of a nursing facility or a permanent change in bed capacity of a nursing facility that increases the bed capacity of the nursing facility. The department, in consultation with the department of health and human services, may extend the moratorium in six-month increments following the conclusion of the initial twelve-month period, but for no longer than a total of thirty-six months.

2. The department, in consultation with the department of health and human services, may waive the moratorium as specified in [this section](#) if any of the following applies:

a. The departments jointly determine there is a specialized need for the nursing facility beds requested.

b. The average occupancy of all licensed nursing facility beds located within the county and contiguous counties of the location of the proposed increase in nursing facility bed capacity exceeded eighty-five percent during the three most recent calendar quarters as published by the centers for Medicare and Medicaid services of the United States department of health and human services at the time of the filing of the application.

3. The department shall publish any request for a waiver of the moratorium as well as an explanation for the decision to either grant or deny the waiver request.

4. For the purposes of [this section](#), “occupancy” means the average number of residents of the nursing facility during the applicable time period divided by the licensed bed capacity of the nursing facility.

[2023 Acts, ch 158, §7](#)