



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2769

by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

110 ILCS 330/3.5 new
210 ILCS 85/10.4

from Ch. 111 1/2, par. 151.4

Amends the University of Illinois Hospital Act and the Hospital Licensing Act. Provides that if agreeing to a medical staff member's resignation, surrender, restriction, or limitation of his or her medical staff membership or clinical privileges; determining a medical staff member's leave of absence of greater than 30 days has begun; or determining a medical staff member's medical staff membership or clinical privileges have expired due to failure of the medical staff member to reapply requires a hospital to file a report with the National Practitioner Data Bank, then, upon request or prior to such agreement or determination, the hospital must provide the medical staff member with specified notice and opportunities to postpone such adverse action. Provides that medical staff members shall be given at least 14 days after the date of notice to exercise their right to postpone.

LRB100 05558 MJP 15572 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The University of Illinois Hospital Act is
5 amended by adding Section 3.5 as follows:

6 (110 ILCS 330/3.5 new)

7 Sec. 3.5. Notice required prior to filing a report with the
8 National Practitioner Data Bank. Upon request or prior to (1)
9 agreeing to the resignation, surrender, restriction, or
10 limitation of a medical staff member's medical staff membership
11 or clinical privileges, (2) determining a medical staff
12 member's leave of absence of greater than 30 days has begun, or
13 (3) determining a medical staff member's medical staff
14 membership or clinical privileges has expired due to failure of
15 the medical staff member to reapply, the University of Illinois
16 Hospital must, if such agreement or determination requires the
17 University of Illinois Hospital to file a report with the
18 National Practitioner Data Bank:

19 (A) give notice to the medical staff member that such
20 agreement or determination triggers a report to the
21 National Practitioner Data Bank if not postponed; and

22 (B) afford the medical staff member the opportunity to
23 postpone the resignation, surrender, restriction,

1 limitation, leave, or expiration in order to participate in
2 the investigation until the hospital formally closes the
3 matter or, if the investigation results in an adverse
4 action recommendation or if an adverse action has already
5 been proposed, then until exhaustion of the substantive and
6 procedural rights afforded medical staff members under
7 federal and State law and the University of Illinois
8 Hospital's medical staff bylaws.

9 Medical staff members shall be given a minimum of 14 days
10 after the date of the notice from the University of Illinois
11 Hospital to exercise their right to postpone. The purpose and
12 intent of this Section is to preserve the right of medical
13 staff members to defend themselves against allegations and
14 adverse actions related to professional competence or conduct
15 before a report is required to be filed with the National
16 Practitioner Data Bank under the federal Health Care Quality
17 Improvement Act of 1986, including any amendments thereto.

18 Section 10. The Hospital Licensing Act is amended by
19 changing Section 10.4 as follows:

20 (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

21 Sec. 10.4. Medical staff privileges.

22 (a) Any hospital licensed under this Act or any hospital
23 organized under the University of Illinois Hospital Act shall,
24 prior to the granting of any medical staff privileges to an

1 applicant, or renewing a current medical staff member's
2 privileges, request of the Director of Professional Regulation
3 information concerning the licensure status and any
4 disciplinary action taken against the applicant's or medical
5 staff member's license, except: (1) for medical personnel who
6 enter a hospital to obtain organs and tissues for transplant
7 from a donor in accordance with the Illinois Anatomical Gift
8 Act; or (2) for medical personnel who have been granted
9 disaster privileges pursuant to the procedures and
10 requirements established by rules adopted by the Department.
11 Any hospital and any employees of the hospital or others
12 involved in granting privileges who, in good faith, grant
13 disaster privileges pursuant to this Section to respond to an
14 emergency shall not, as a result of their acts or omissions, be
15 liable for civil damages for granting or denying disaster
16 privileges except in the event of willful and wanton
17 misconduct, as that term is defined in Section 10.2 of this
18 Act. Individuals granted privileges who provide care in an
19 emergency situation, in good faith and without direct
20 compensation, shall not, as a result of their acts or
21 omissions, except for acts or omissions involving willful and
22 wanton misconduct, as that term is defined in Section 10.2 of
23 this Act, on the part of the person, be liable for civil
24 damages. The Director of Professional Regulation shall
25 transmit, in writing and in a timely fashion, such information
26 regarding the license of the applicant or the medical staff

1 member, including the record of imposition of any periods of
2 supervision or monitoring as a result of alcohol or substance
3 abuse, as provided by Section 23 of the Medical Practice Act of
4 1987, and such information as may have been submitted to the
5 Department indicating that the application or medical staff
6 member has been denied, or has surrendered, medical staff
7 privileges at a hospital licensed under this Act, or any
8 equivalent facility in another state or territory of the United
9 States. The Director of Professional Regulation shall define by
10 rule the period for timely response to such requests.

11 No transmittal of information by the Director of
12 Professional Regulation, under this Section shall be to other
13 than the president, chief operating officer, chief
14 administrative officer, or chief of the medical staff of a
15 hospital licensed under this Act, a hospital organized under
16 the University of Illinois Hospital Act, or a hospital operated
17 by the United States, or any of its instrumentalities. The
18 information so transmitted shall be afforded the same status as
19 is information concerning medical studies by Part 21 of Article
20 VIII of the Code of Civil Procedure, as now or hereafter
21 amended.

22 (b) All hospitals licensed under this Act, except county
23 hospitals as defined in subsection (c) of Section 15-1 of the
24 Illinois Public Aid Code, shall comply with, and the medical
25 staff bylaws of these hospitals shall include rules consistent
26 with, the provisions of this Section in granting, limiting,

1 renewing, or denying medical staff membership and clinical
2 staff privileges. Hospitals that require medical staff members
3 to possess faculty status with a specific institution of higher
4 education are not required to comply with subsection (1) below
5 when the physician does not possess faculty status.

6 (1) Minimum procedures for pre-applicants and
7 applicants for medical staff membership shall include the
8 following:

9 (A) Written procedures relating to the acceptance
10 and processing of pre-applicants or applicants for
11 medical staff membership, which should be contained in
12 medical staff bylaws.

13 (B) Written procedures to be followed in
14 determining a pre-applicant's or an applicant's
15 qualifications for being granted medical staff
16 membership and privileges.

17 (C) Written criteria to be followed in evaluating a
18 pre-applicant's or an applicant's qualifications.

19 (D) An evaluation of a pre-applicant's or an
20 applicant's current health status and current license
21 status in Illinois.

22 (E) A written response to each pre-applicant or
23 applicant that explains the reason or reasons for any
24 adverse decision (including all reasons based in whole
25 or in part on the applicant's medical qualifications or
26 any other basis, including economic factors).

1 (2) Minimum procedures with respect to medical staff
2 and clinical privilege determinations concerning current
3 members of the medical staff shall include the following:

4 (A) A written notice of an adverse decision.

5 (B) An explanation of the reasons for an adverse
6 decision including all reasons based on the quality of
7 medical care or any other basis, including economic
8 factors.

9 (C) A statement of the medical staff member's right
10 to request a fair hearing on the adverse decision
11 before a hearing panel whose membership is mutually
12 agreed upon by the medical staff and the hospital
13 governing board. The hearing panel shall have
14 independent authority to recommend action to the
15 hospital governing board. Upon the request of the
16 medical staff member or the hospital governing board,
17 the hearing panel shall make findings concerning the
18 nature of each basis for any adverse decision
19 recommended to and accepted by the hospital governing
20 board.

21 (i) Nothing in this subparagraph (C) limits a
22 hospital's or medical staff's right to summarily
23 suspend, without a prior hearing, a person's
24 medical staff membership or clinical privileges if
25 the continuation of practice of a medical staff
26 member constitutes an immediate danger to the

1 public, including patients, visitors, and hospital
2 employees and staff. In the event that a hospital
3 or the medical staff imposes a summary suspension,
4 the Medical Executive Committee, or other
5 comparable governance committee of the medical
6 staff as specified in the bylaws, must meet as soon
7 as is reasonably possible to review the suspension
8 and to recommend whether it should be affirmed,
9 lifted, expunged, or modified if the suspended
10 physician requests such review. A summary
11 suspension may not be implemented unless there is
12 actual documentation or other reliable information
13 that an immediate danger exists. This
14 documentation or information must be available at
15 the time the summary suspension decision is made
16 and when the decision is reviewed by the Medical
17 Executive Committee. If the Medical Executive
18 Committee recommends that the summary suspension
19 should be lifted, expunged, or modified, this
20 recommendation must be reviewed and considered by
21 the hospital governing board, or a committee of the
22 board, on an expedited basis. Nothing in this
23 subparagraph (C) shall affect the requirement that
24 any requested hearing must be commenced within 15
25 days after the summary suspension and completed
26 without delay unless otherwise agreed to by the

1 parties. A fair hearing shall be commenced within
2 15 days after the suspension and completed without
3 delay, except that when the medical staff member's
4 license to practice has been suspended or revoked
5 by the State's licensing authority, no hearing
6 shall be necessary.

7 (ii) Nothing in this subparagraph (C) limits a
8 medical staff's right to permit, in the medical
9 staff bylaws, summary suspension of membership or
10 clinical privileges in designated administrative
11 circumstances as specifically approved by the
12 medical staff. This bylaw provision must
13 specifically describe both the administrative
14 circumstance that can result in a summary
15 suspension and the length of the summary
16 suspension. The opportunity for a fair hearing is
17 required for any administrative summary
18 suspension. Any requested hearing must be
19 commenced within 15 days after the summary
20 suspension and completed without delay. Adverse
21 decisions other than suspension or other
22 restrictions on the treatment or admission of
23 patients may be imposed summarily and without a
24 hearing under designated administrative
25 circumstances as specifically provided for in the
26 medical staff bylaws as approved by the medical

1 staff.

2 (iii) If a hospital exercises its option to
3 enter into an exclusive contract and that contract
4 results in the total or partial termination or
5 reduction of medical staff membership or clinical
6 privileges of a current medical staff member, the
7 hospital shall provide the affected medical staff
8 member 60 days prior notice of the effect on his or
9 her medical staff membership or privileges. An
10 affected medical staff member desiring a hearing
11 under subparagraph (C) of this paragraph (2) must
12 request the hearing within 14 days after the date
13 he or she is so notified. The requested hearing
14 shall be commenced and completed (with a report and
15 recommendation to the affected medical staff
16 member, hospital governing board, and medical
17 staff) within 30 days after the date of the medical
18 staff member's request. If agreed upon by both the
19 medical staff and the hospital governing board,
20 the medical staff bylaws may provide for longer
21 time periods.

22 (C-5) All peer review used for the purpose of
23 credentialing, privileging, disciplinary action, or
24 other recommendations affecting medical staff
25 membership or exercise of clinical privileges, whether
26 relying in whole or in part on internal or external

1 reviews, shall be conducted in accordance with the
2 medical staff bylaws and applicable rules,
3 regulations, or policies of the medical staff. If
4 external review is obtained, any adverse report
5 utilized shall be in writing and shall be made part of
6 the internal peer review process under the bylaws. The
7 report shall also be shared with a medical staff peer
8 review committee and the individual under review. If
9 the medical staff peer review committee or the
10 individual under review prepares a written response to
11 the report of the external peer review within 30 days
12 after receiving such report, the governing board shall
13 consider the response prior to the implementation of
14 any final actions by the governing board which may
15 affect the individual's medical staff membership or
16 clinical privileges. Any peer review that involves
17 willful or wanton misconduct shall be subject to civil
18 damages as provided for under Section 10.2 of this Act.

19 (D) A statement of the member's right to inspect
20 all pertinent information in the hospital's possession
21 with respect to the decision.

22 (E) A statement of the member's right to present
23 witnesses and other evidence at the hearing on the
24 decision.

25 (E-5) The right to be represented by a personal
26 attorney.

1 (F) A written notice and written explanation of the
2 decision resulting from the hearing.

3 (F-5) A written notice of a final adverse decision
4 by a hospital governing board.

5 (G) Notice given 15 days before implementation of
6 an adverse medical staff membership or clinical
7 privileges decision based substantially on economic
8 factors. This notice shall be given after the medical
9 staff member exhausts all applicable procedures under
10 this Section, including item (iii) of subparagraph (C)
11 of this paragraph (2), and under the medical staff
12 bylaws in order to allow sufficient time for the
13 orderly provision of patient care.

14 (H) Nothing in this paragraph (2) of this
15 subsection (b) limits a medical staff member's right to
16 waive, in writing, the rights provided in
17 subparagraphs (A) through (G) of this paragraph (2) of
18 this subsection (b) upon being granted the written
19 exclusive right to provide particular services at a
20 hospital, either individually or as a member of a
21 group. If an exclusive contract is signed by a
22 representative of a group of physicians, a waiver
23 contained in the contract shall apply to all members of
24 the group unless stated otherwise in the contract.

25 (3) Every adverse medical staff membership and
26 clinical privilege decision based substantially on

1 economic factors shall be reported to the Hospital
2 Licensing Board before the decision takes effect. These
3 reports shall not be disclosed in any form that reveals the
4 identity of any hospital or physician. These reports shall
5 be utilized to study the effects that hospital medical
6 staff membership and clinical privilege decisions based
7 upon economic factors have on access to care and the
8 availability of physician services. The Hospital Licensing
9 Board shall submit an initial study to the Governor and the
10 General Assembly by January 1, 1996, and subsequent reports
11 shall be submitted periodically thereafter.

12 (4) As used in this Section:

13 "Adverse decision" means a decision reducing,
14 restricting, suspending, revoking, denying, or not
15 renewing medical staff membership or clinical privileges.

16 "Economic factor" means any information or reasons for
17 decisions unrelated to quality of care or professional
18 competency.

19 "Pre-applicant" means a physician licensed to practice
20 medicine in all its branches who requests an application
21 for medical staff membership or privileges.

22 "Privilege" means permission to provide medical or
23 other patient care services and permission to use hospital
24 resources, including equipment, facilities and personnel
25 that are necessary to effectively provide medical or other
26 patient care services. This definition shall not be

1 construed to require a hospital to acquire additional
2 equipment, facilities, or personnel to accommodate the
3 granting of privileges.

4 (5) Any amendment to medical staff bylaws required
5 because of this amendatory Act of the 91st General Assembly
6 shall be adopted on or before July 1, 2001.

7 (c) All hospitals shall consult with the medical staff
8 prior to closing membership in the entire or any portion of the
9 medical staff or a department. If the hospital closes
10 membership in the medical staff, any portion of the medical
11 staff, or the department over the objections of the medical
12 staff, then the hospital shall provide a detailed written
13 explanation for the decision to the medical staff 10 days prior
14 to the effective date of any closure. No applications need to
15 be provided when membership in the medical staff or any
16 relevant portion of the medical staff is closed.

17 (d) Upon request or prior to (1) agreeing to the
18 resignation, surrender, restriction, or limitation of a
19 medical staff member's medical staff membership or clinical
20 privileges, (2) determining a medical staff member's leave of
21 absence of greater than 30 days has begun, or (3) determining a
22 medical staff member's medical staff membership or clinical
23 privileges has expired due to failure of the medical staff
24 member to reapply, a hospital must, if such agreement or
25 determination requires the hospital to file a report with the
26 National Practitioner Data Bank:

1 (A) give notice to the medical staff member that such
2 agreement or determination triggers a report to the
3 National Practitioner Data Bank if not postponed; and

4 (B) afford the medical staff member the opportunity to
5 postpone the resignation, surrender, restriction,
6 limitation, leave, or expiration in order to participate in
7 the investigation until the hospital formally closes the
8 matter or, if the investigation results in an adverse
9 action recommendation or if an adverse action has already
10 been proposed, then until exhaustion of the substantive and
11 procedural rights afforded medical staff members under
12 federal and State law and the hospital's medical staff
13 bylaws.

14 Medical staff members shall be given a minimum of 14 days
15 after the date of the notice from the hospital to exercise
16 their right to postpone. The purpose and intent of this Section
17 is to preserve the right of medical staff members to defend
18 themselves against allegations and adverse actions related to
19 professional competence or conduct before a report is required
20 to be filed with the National Practitioner Data Bank under the
21 federal Health Care Quality Improvement Act of 1986, including
22 any amendments thereto.

23 (Source: P.A. 96-445, eff. 8-14-09; 97-1006, eff. 8-17-12.)