

1                                    AMENDMENT TO SENATE BILL 59

2                    AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 59 by replacing  
3 everything after the enacting clause with the following:

4                    "Section 1. Short title. This Act may be cited as the  
5 Hospital Report Card Act.

6                    Section 5. Findings. The General Assembly finds that  
7 Illinois consumers have a right to access information about  
8 the quality of health care provided in Illinois hospitals in  
9 order to make better decisions about their choice of health  
10 care provider.

11                    Section 10. Definitions. For the purpose of this Act:

12                    "Average daily census" means the average number of  
13 inpatients receiving service on any given 24-hour period  
14 beginning at midnight in each clinical service area of the  
15 hospital.

16                    "Clinical service area" means a grouping of clinical  
17 services by a generic class of various types or levels of  
18 support functions, equipment, care, or treatment provided to  
19 inpatients. Hospitals may have, but are not required to have,  
20 the following categories of service: behavioral health,  
21 critical care, maternal-child care, medical-surgical,

1     pediatrics, perioperative services, and telemetry.

2             "Department" means the Department of Public Health.

3             "Direct-care nurse" and "direct-care nursing staff"  
4 includes any registered nurse, licensed practical nurse, or  
5 assistive nursing personnel with direct responsibility to  
6 oversee or carry out medical regimens or nursing care for one  
7 or more patient.

8             "Hospital" means a health care facility licensed under  
9 the Hospital Licensing Act.

10            "Nursing care" means care that falls within the scope of  
11 practice set forth in the Nursing and Advanced Practice  
12 Nursing Act or is otherwise encompassed within recognized  
13 professional standards of nursing practice, including  
14 assessment, nursing diagnosis, planning, intervention,  
15 evaluation, and patient advocacy.

16            "Retaliate" means to discipline, discharge, suspend,  
17 demote, harass, deny employment or promotion, lay off, or  
18 take any other adverse action against direct-care nursing  
19 staff as a result of that nursing staff taking any action  
20 described in this Act.

21            "Skill mix" means the differences in licensing,  
22 specialty, and experiences among direct-care nurses.

23            "Staffing levels" means the numerical nurse to patient  
24 ratio by licensed nurse classification within a nursing  
25 department or unit.

26            "Unit" means a functional division or area of a hospital  
27 in which nursing care is provided.

28            Section 15. Staffing levels.

29            (a) The number of registered professional nurses,  
30 licensed practical nurses, and other nursing personnel  
31 assigned to each patient care unit shall be consistent with  
32 the types of nursing care needed by the patients and the  
33 capabilities of the staff. Patients on each unit shall be

1 evaluated near the end of each change of shift by criteria  
2 developed by the nursing service. There shall be staffing  
3 schedules reflecting actual nursing personnel required for  
4 the hospital and for each patient unit. Staffing patterns  
5 shall reflect consideration of nursing goals, standards of  
6 nursing practice, and the needs of the patients.

7 (b) Current nursing staff schedules shall be available  
8 upon request at each patient care unit. Each schedule shall  
9 list the daily assigned nursing personnel and average daily  
10 census for the unit. The actual nurse staffing assignment  
11 roster for each patient care unit shall be available upon  
12 request at the patient care unit for the effective date of  
13 that roster. Upon the roster's expiration, the hospital shall  
14 retain the roster for 5 years from the date of its  
15 expiration.

16 (c) All records required under this Section, including  
17 anticipated staffing schedules and the methods to determine  
18 and adjust staffing levels shall be made available to the  
19 public upon request.

20 (d) All records required under this Section shall be  
21 maintained by the facility for no less than 5 years.

22 Section 20. Orientation and training.

23 (a) All health care facilities shall have established an  
24 orientation process that provides initial job training and  
25 information and assesses the direct care nursing staff's  
26 ability to fulfill specified responsibilities.

27 (b) Personnel not competent for a given unit shall not  
28 be assigned to work there without direct supervision until  
29 appropriately trained.

30 (c) Staff training information will be available upon  
31 request at the hospital.

32 Section 25. Hospital reports.

1 (a) Individual hospitals shall prepare a quarterly  
2 report including all of the following:

3 (1) Nursing hours per patient day, average daily  
4 census, and average daily hours worked for each clinical  
5 service area.

6 (2) Nosocomial infection rates for the facility for  
7 the specific clinical procedures determined by the  
8 Department by rule under the following categories:

9 (A) Class I surgical site infection.

10 (B) Ventilator-associated pneumonia.

11 (C) Central line-related bloodstream  
12 infections.

13 The Department shall only disclose Illinois hospital  
14 infection rate data according to the current benchmarks of  
15 the Centers for Disease Control's National Nosocomial  
16 Infection Surveillance Program.

17 (b) Individual hospitals shall prepare annual reports  
18 including vacancy and turnover rates for licensed nurses per  
19 clinical service area.

20 (c) None of the information the Department discloses to  
21 the public may be made available in any form or fashion  
22 unless the information has been reviewed, adjusted, and  
23 validated according to the following process:

24 (1) The Department shall organize an advisory  
25 committee, including representatives from the Department,  
26 public and private hospitals, direct care nursing staff,  
27 physicians, academic researchers, consumers, health  
28 insurance companies, organized labor, and organizations  
29 representing hospitals and physicians. The advisory  
30 committee must be meaningfully involved in the  
31 development of all aspects of the Department's  
32 methodology for collecting, analyzing, and disclosing the  
33 information collected under this Act, including  
34 collection methods, formatting, and methods and means for

1 release and dissemination.

2 (2) The entire methodology for collecting and  
3 analyzing the data shall be disclosed to all relevant  
4 organizations and to all hospitals that are the subject  
5 of any information to be made available to the public  
6 before any public disclosure of such information.

7 (3) Data collection and analytical methodologies  
8 shall be used that meet accepted standards of validity  
9 and reliability before any information is made available  
10 to the public.

11 (4) The limitations of the data sources and  
12 analytic methodologies used to develop comparative  
13 hospital information shall be clearly identified and  
14 acknowledged, including but not limited to the  
15 appropriate and inappropriate uses of the data.

16 (5) To the greatest extent possible, comparative  
17 hospital information initiatives shall use standard-based  
18 norms derived from widely accepted provider-developed  
19 practice guidelines.

20 (6) Comparative hospital information and other  
21 information that the Department has compiled regarding  
22 hospitals shall be shared with the hospitals under review  
23 prior to public dissemination of such information and  
24 these hospitals have 30 days to make corrections and to  
25 add helpful explanatory comments about the information  
26 before the publication.

27 (7) Comparisons among hospitals shall adjust for  
28 patient case mix and other relevant risk factors and  
29 control for provider peer groups, when appropriate.

30 (8) Effective safeguards to protect against the  
31 unauthorized use or disclosure of hospital information  
32 shall be developed and implemented.

33 (9) Effective safeguards to protect against the  
34 dissemination of inconsistent, incomplete, invalid,

1       inaccurate, or subjective hospital data shall be  
2       developed and implemented.

3               (10) The quality and accuracy of hospital  
4       information reported under this Act and its data  
5       collection, analysis, and dissemination methodologies  
6       shall be evaluated regularly.

7               (11) Only the most basic identifying information  
8       from mandatory reports shall be used, and  
9       patient-identifiable information shall not be released.  
10       None of the information the Department discloses to the  
11       public under this Act may be used to establish a standard  
12       of care in a private civil action.

13              (d) Quarterly reports shall be submitted, in a format  
14       set forth in rules adopted by the Department, to the  
15       Department by April 30, July 31, October 31, and January 31  
16       each year for the previous quarter. Data in quarterly reports  
17       must cover a period ending not earlier than one month prior  
18       to submission of the report. Annual reports shall be  
19       submitted by December 31 in a format set forth in rules  
20       adopted by the Department to the Department. All reports  
21       shall be made available to the public on-site and through the  
22       Department.

23              (e) If the hospital is a division or subsidiary of  
24       another entity that owns or operates other hospitals or  
25       related organizations, the annual public disclosure report  
26       shall be for the specific division or subsidiary and not for  
27       the other entity.

28              (f) The Department shall disclose information under this  
29       Section in accordance with provisions for inspection and  
30       copying of public records required by the Freedom of  
31       Information Act provided that such information satisfies the  
32       provisions of subsection (c) of this Section.

33              (g) Notwithstanding any other provision of law, under no  
34       circumstances shall the Department disclose information

1 obtained from a hospital that is confidential under Part 21  
2 of Article 8 of the Code of Civil Procedure.

3 Section 30. Department reports. The Department of Public  
4 Health shall annually submit to the General Assembly a report  
5 summarizing the quarterly reports by health service area and  
6 shall publish that report on its website. The Department of  
7 Public Health may issue quarterly informational bulletins at  
8 its discretion, summarizing all or part of the information  
9 submitted in these quarterly reports. The Department shall  
10 also publish risk-adjusted mortality rates for each hospital  
11 based upon information hospitals have already submitted to  
12 the Department pursuant to their obligations to report health  
13 care information under other public health reporting laws and  
14 regulations outside of this Act. The published mortality  
15 rates must comply with the hospital data publication process  
16 contained in subsection (c) of Section 25 of this Act.

17 Section 35. Whistleblower protections.

18 (a) A hospital covered by this Act shall not penalize,  
19 discriminate, or retaliate in any manner against an employee  
20 with respect to compensation or the terms, conditions, or  
21 privileges of employment who in good faith, individually or  
22 in conjunction with another person or persons, does any of  
23 the following or intimidate, threaten, or punish an employee  
24 to prevent him or her from doing any of the following:

25 (1) Discloses to the nursing staff supervisor or  
26 manager, a private accreditation organization, the  
27 nurse's collective bargaining agent, or a regulatory  
28 agency any activity, policy, or practice of a hospital  
29 that violates this Act or any other law or rule or that  
30 the employee reasonably believes poses a risk to the  
31 health, safety, or welfare of a patient or the public.

32 (2) Initiates, cooperates, or otherwise

1 participates in an investigation or proceeding brought by  
2 a regulatory agency or private accreditation body  
3 concerning matters covered by this Act or any other law  
4 or rule or that the employee reasonably believes poses a  
5 risk to the health, safety, or welfare of a patient or  
6 the public.

7 (3) Objects to or refuses to participate in any  
8 activity, policy, or practice of a hospital that violates  
9 this Act or any law or rule of the Department or that a  
10 reasonable person would believe poses a risk to the  
11 health, safety, or welfare of a patient or the public.

12 (4) Participates in a committee or peer review  
13 process or files a report or complaint that discusses  
14 allegation of unsafe, dangerous, or potentially dangerous  
15 care within the hospital.

16 (b) For the purposes of this Section, an employee is  
17 presumed to act in good faith if the employee reasonably  
18 believes that (i) the information reported or disclosed is  
19 true and (ii) a violation has occurred or may occur. An  
20 employee is not acting in good faith under this Section if  
21 the employee's report or action was based on information that  
22 the employee should reasonably know is false or misleading.  
23 The protection of this Section shall also not apply to an  
24 employee unless the employee gives written notice to a  
25 hospital manager of the activity, policy, practice, or  
26 violation that the employee believes poses a risk to the  
27 health of a patient or the public and provides the manager a  
28 reasonable opportunity to correct the problem. The manager  
29 shall respond in writing to the employee within 7 days  
30 acknowledging that the notice was received and provide  
31 written notice of any action taken within a reasonable time  
32 of receiving the employee's notice. This notice requirement  
33 shall not apply if the employee is reasonably certain that  
34 the activity, policy, practice, or violation: (i) is known by

1 one or more hospital managers who have had an opportunity to  
2 correct the problem and have not done so; (ii) involves the  
3 commission of a crime; or (iii) places patient health or  
4 safety in severe and immediate danger. The notice requirement  
5 shall not apply if the employee is participating in a survey,  
6 investigation, or other activity of a regulatory agency, law  
7 enforcement agency, or private accreditation body that was  
8 not initiated by the employee. Nothing in this Section  
9 prohibits a hospital from training, educating, correcting, or  
10 otherwise taking action to improve the performance of  
11 employees who report that they are unable or unwilling to  
12 perform an assigned task.

13 Section 40. Private right of action. Any health care  
14 facility that violates the provisions of Section 35 may be  
15 held liable to the employee affected in an action brought in  
16 a court of competent jurisdiction for such legal or equitable  
17 relief as may be appropriate to effectuate the purposes of  
18 this Act.

19 Section 45. Regulatory oversight. The Department shall  
20 be responsible for ensuring compliance with this Act as a  
21 condition of licensure under the Hospital Licensing Act and  
22 shall enforce such compliance according to the provisions of  
23 the Hospital Licensing Act.

24 Section 90. The Hospital Licensing Act is amended by  
25 changing Section 7 as follows:

26 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

27 Sec. 7. (a) The Director after notice and opportunity for  
28 hearing to the applicant or licensee may deny, suspend, or  
29 revoke a permit to establish a hospital or deny, suspend, or  
30 revoke a license to open, conduct, operate, and maintain a

1 hospital in any case in which he finds that there has been a  
2 substantial failure to comply with the provisions of this Act  
3 or the Hospital Report Card Act or the standards, rules, and  
4 regulations established by virtue of either of those Acts  
5 thereof.

6 (b) Such notice shall be effected by registered mail or  
7 by personal service setting forth the particular reasons for  
8 the proposed action and fixing a date, not less than 15 days  
9 from the date of such mailing or service, at which time the  
10 applicant or licensee shall be given an opportunity for a  
11 hearing. Such hearing shall be conducted by the Director or  
12 by an employee of the Department designated in writing by the  
13 Director as Hearing Officer to conduct the hearing. On the  
14 basis of any such hearing, or upon default of the applicant  
15 or licensee, the Director shall make a determination  
16 specifying his findings and conclusions. In case of a denial  
17 to an applicant of a permit to establish a hospital, such  
18 determination shall specify the subsection of Section 6 under  
19 which the permit was denied and shall contain findings of  
20 fact forming the basis of such denial. A copy of such  
21 determination shall be sent by registered mail or served  
22 personally upon the applicant or licensee. The decision  
23 denying, suspending, or revoking a permit or a license shall  
24 become final 35 days after it is so mailed or served, unless  
25 the applicant or licensee, within such 35 day period,  
26 petitions for review pursuant to Section 13.

27 (c) The procedure governing hearings authorized by this  
28 Section shall be in accordance with rules promulgated by the  
29 Department and approved by the Hospital Licensing Board. A  
30 full and complete record shall be kept of all proceedings,  
31 including the notice of hearing, complaint, and all other  
32 documents in the nature of pleadings, written motions filed  
33 in the proceedings, and the report and orders of the Director  
34 and Hearing Officer. All testimony shall be reported but need

1 not be transcribed unless the decision is appealed pursuant  
2 to Section 13. A copy or copies of the transcript may be  
3 obtained by any interested party on payment of the cost of  
4 preparing such copy or copies.

5 (d) The Director or Hearing Officer shall upon his own  
6 motion, or on the written request of any party to the  
7 proceeding, issue subpoenas requiring the attendance and the  
8 giving of testimony by witnesses, and subpoenas duces tecum  
9 requiring the production of books, papers, records, or  
10 memoranda. All subpoenas and subpoenas duces tecum issued  
11 under the terms of this Act may be served by any person of  
12 full age. The fees of witnesses for attendance and travel  
13 shall be the same as the fees of witnesses before the Circuit  
14 Court of this State, such fees to be paid when the witness is  
15 excused from further attendance. When the witness is  
16 subpoenaed at the instance of the Director, or Hearing  
17 Officer, such fees shall be paid in the same manner as other  
18 expenses of the Department, and when the witness is  
19 subpoenaed at the instance of any other party to any such  
20 proceeding the Department may require that the cost of  
21 service of the subpoena or subpoena duces tecum and the fee  
22 of the witness be borne by the party at whose instance the  
23 witness is summoned. In such case, the Department in its  
24 discretion, may require a deposit to cover the cost of such  
25 service and witness fees. A subpoena or subpoena duces tecum  
26 issued as aforesaid shall be served in the same manner as a  
27 subpoena issued out of a court.

28 (e) Any Circuit Court of this State upon the application  
29 of the Director, or upon the application of any other party  
30 to the proceeding, may, in its discretion, compel the  
31 attendance of witnesses, the production of books, papers,  
32 records, or memoranda and the giving of testimony before the  
33 Director or Hearing Officer conducting an investigation or  
34 holding a hearing authorized by this Act, by an attachment

1 for contempt, or otherwise, in the same manner as production  
2 of evidence may be compelled before the court.

3 (f) The Director or Hearing Officer, or any party in an  
4 investigation or hearing before the Department, may cause the  
5 depositions of witnesses within the State to be taken in the  
6 manner prescribed by law for like depositions in civil  
7 actions in courts of this State, and to that end compel the  
8 attendance of witnesses and the production of books, papers,  
9 records, or memoranda.

10 (Source: Laws 1967, p. 3969.)

11 Section 99. Effective date. This Act takes effect on  
12 January 1, 2004."