



Sen. Ann Gillespie

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10300HB2222sam001

LRB103 30580 LNS 61249 a

1 AMENDMENT TO HOUSE BILL 2222

2 AMENDMENT NO. _____. Amend House Bill 2222 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Section 8.5 as follows:

6 (20 ILCS 3960/8.5)

7 (Section scheduled to be repealed on December 31, 2029)

8 Sec. 8.5. Certificate of exemption for change of ownership
9 of a health care facility; discontinuation of a category of
10 service; public notice and public hearing.

11 (a) Upon a finding that an application for a change of
12 ownership is complete, the State Board shall publish a legal
13 notice on 3 consecutive days in a newspaper of general
14 circulation in the area or community to be affected and afford
15 the public an opportunity to request a hearing. If the
16 application is for a facility located in a Metropolitan

1 Statistical Area, an additional legal notice shall be
2 published in a newspaper of limited circulation, if one
3 exists, in the area in which the facility is located. If the
4 newspaper of limited circulation is published on a daily
5 basis, the additional legal notice shall be published on 3
6 consecutive days. The applicant shall pay the cost incurred by
7 the Board in publishing the change of ownership notice in
8 newspapers as required under this subsection. The legal notice
9 shall also be posted on the Health Facilities and Services
10 Review Board's web site and sent to the State Representative
11 and State Senator of the district in which the health care
12 facility is located and to the Office of the Attorney General.

13 An application for change of ownership of a hospital shall not
14 be deemed complete without a signed certification that for a
15 period of 2 years after the change of ownership transaction is
16 effective, the hospital will not adopt a charity care policy
17 that is more restrictive than the policy in effect during the
18 year prior to the transaction. An application for a change of
19 ownership need not contain signed transaction documents so
20 long as it includes the following key terms of the
21 transaction: names and background of the parties; structure of
22 the transaction; the person who will be the licensed or
23 certified entity after the transaction; the ownership or
24 membership interests in such licensed or certified entity both
25 prior to and after the transaction; fair market value of
26 assets to be transferred; and the purchase price or other form

1 of consideration to be provided for those assets. The issuance
2 of the certificate of exemption shall be contingent upon the
3 applicant submitting a statement to the Board within 90 days
4 after the closing date of the transaction, or such longer
5 period as provided by the Board, certifying that the change of
6 ownership has been completed in accordance with the key terms
7 contained in the application. If such key terms of the
8 transaction change, a new application shall be required.

9 Where a change of ownership is among related persons, and
10 there are no other changes being proposed at the health care
11 facility that would otherwise require a permit or exemption
12 under this Act, the applicant shall submit an application
13 consisting of a standard notice in a form set forth by the
14 Board briefly explaining the reasons for the proposed change
15 of ownership. Once such an application is submitted to the
16 Board and reviewed by the Board staff, the Board Chair shall
17 take action on an application for an exemption for a change of
18 ownership among related persons within 45 days after the
19 application has been deemed complete, provided the application
20 meets the applicable standards under this Section. If the
21 Board Chair has a conflict of interest or for other good cause,
22 the Chair may request review by the Board. Notwithstanding any
23 other provision of this Act, for purposes of this Section, a
24 change of ownership among related persons means a transaction
25 where the parties to the transaction are under common control
26 or ownership before and after the transaction is completed.

1 Nothing in this Act shall be construed as authorizing the
2 Board to impose any conditions, obligations, or limitations,
3 other than those required by this Section, with respect to the
4 issuance of an exemption for a change of ownership, including,
5 but not limited to, the time period before which a subsequent
6 change of ownership of the health care facility could be
7 sought, or the commitment to continue to offer for a specified
8 time period any services currently offered by the health care
9 facility.

10 The changes made by this amendatory Act of the 103rd
11 General Assembly are inoperative on and after January 1, 2027.

12 (a-3) (Blank).

13 (a-5) Upon a finding that an application to discontinue a
14 category of service is complete and provides the requested
15 information, as specified by the State Board, an exemption
16 shall be issued. No later than 30 days after the issuance of
17 the exemption, the health care facility must give written
18 notice of the discontinuation of the category of service to
19 the State Senator and State Representative serving the
20 legislative district in which the health care facility is
21 located. No later than 90 days after a discontinuation of a
22 category of service, the applicant must submit a statement to
23 the State Board certifying that the discontinuation is
24 complete.

25 (b) If a public hearing is requested, it shall be held at
26 least 15 days but no more than 30 days after the date of

1 publication of the legal notice in the community in which the
2 facility is located. The hearing shall be held in the affected
3 area or community in a place of reasonable size and
4 accessibility and a full and complete written transcript of
5 the proceedings shall be made. All interested persons
6 attending the hearing shall be given a reasonable opportunity
7 to present their positions in writing or orally. The applicant
8 shall provide a summary or describe the proposed change of
9 ownership at the public hearing.

10 (c) For the purposes of this Section "newspaper of limited
11 circulation" means a newspaper intended to serve a particular
12 or defined population of a specific geographic area within a
13 Metropolitan Statistical Area such as a municipality, town,
14 village, township, or community area, but does not include
15 publications of professional and trade associations.

16 (d) The changes made to this Section by this amendatory
17 Act of the 101st General Assembly shall apply to all
18 applications submitted after the effective date of this
19 amendatory Act of the 101st General Assembly.

20 (Source: P.A. 100-201, eff. 8-18-17; 101-83, eff. 7-15-19.)

21 Section 10. The State Finance Act is amended by adding
22 Section 5.990 as follows:

23 (30 ILCS 105/5.990 new)

24 Sec. 5.990. The Antitrust Enforcement Fund. This Section

1 is repealed on January 1, 2027.

2 Section 15. The Illinois Antitrust Act is amended by
3 changing Section 7.2 and by adding Sections 7.2a and 13 as
4 follows:

5 (740 ILCS 10/7.2) (from Ch. 38, par. 60-7.2)

6 Sec. 7.2. (1) Whenever it appears to the Attorney General
7 that any person has engaged in, is engaging in, or is about to
8 engage in any act or practice prohibited by this Act, or that
9 any person has assisted or participated in any agreement or
10 combination of the nature described herein, he may, in his
11 discretion, conduct an investigation as he deems necessary in
12 connection with the matter and has the authority prior to the
13 commencement of any civil or criminal action as provided for
14 in the Act to subpoena witnesses, and pursuant to a subpoena
15 (i) compel their attendance for the purpose of examining them
16 under oath, (ii) require the production of any books,
17 documents, records, writings or tangible things hereafter
18 referred to as "documentary material" which the Attorney
19 General deems relevant or material to his investigation, for
20 inspection, reproducing or copying under such terms and
21 conditions as hereafter set forth, (iii) require written
22 answers under oath to written interrogatories, or (iv) require
23 compliance with a combination of the foregoing. Any subpoena
24 issued by the Attorney General shall contain the following

1 information:

2 (a) The statute and section thereof, the alleged
3 violation of which is under investigation and the general
4 subject matter of the investigation.

5 (b) The date and place at which time the person is
6 required to appear or produce documentary material in his
7 possession, custody or control or submit answers to
8 interrogatories in the office of the Attorney General
9 located in Springfield or Chicago. Said date shall not be
10 less than 10 days from date of service of the subpoena.

11 (c) Where documentary material is required to be
12 produced, the same shall be described by class so as to
13 clearly indicate the material demanded.

14 The Attorney General is hereby authorized, and may so
15 elect, to require the production, pursuant to this section, of
16 documentary material or interrogatory answers prior to the
17 taking of any testimony of the person subpoenaed. Said
18 documentary material shall be made available for inspection
19 and copying during normal business hours at the principal
20 place of business of the person served, or at such other time
21 and place, as may be agreed upon by the person served and the
22 Attorney General. When documentary material is demanded by
23 subpoena, said subpoena shall not:

24 (i) contain any requirement which would be
25 unreasonable or improper if contained in a subpoena duces
26 tecum issued by a court of this State; or

1 (ii) require the disclosure of any documentary
2 material which would be privileged, or which for any other
3 reason would not be required by a subpoena duces tecum
4 issued by a court of this State.

5 (2) The production of documentary material in response to
6 a subpoena served pursuant to this Section shall be made under
7 a sworn certificate, in such form as the subpoena designates,
8 by the person, if a natural person, to whom the demand is
9 directed or, if not a natural person, by a person or persons
10 having knowledge of the facts and circumstances relating to
11 such production, to the effect that all of the documentary
12 material required by the demand and in the possession,
13 custody, or control of the person to whom the demand is
14 directed has been produced and made available to the
15 custodian. Answers to interrogatories shall be accompanied by
16 a statement under oath attesting to the accuracy of the
17 answers.

18 While in the possession of the Attorney General and under
19 such reasonable terms and conditions as the Attorney General
20 shall prescribe: (A) documentary material shall be available
21 for examination by the person who produced such material or by
22 any duly authorized representative of such person, (B)
23 transcript of oral testimony shall be available for
24 examination by the person who produced such testimony, or his
25 or her counsel and (C) answers to interrogatories shall be
26 available for examination by the person who swore to their

1 accuracy.

2 Except as otherwise provided in this Section, no
3 documentary material, transcripts of oral testimony, or
4 answers to interrogatories, or copies thereof, in the
5 possession of the Attorney General shall be available for
6 examination by any individual other than an authorized
7 employee of the Attorney General or other law enforcement
8 officials, federal, State, or local, without the consent of
9 the person who produced such material, transcripts, or
10 interrogatory answers. Such documentary material, transcripts
11 of oral testimony, or answers to interrogatories, or copies
12 thereof may be used by the Attorney General in any
13 administrative or judicial action or proceeding.

14 For purposes of this Section, all documentary materials,
15 transcripts of oral testimony, ~~or~~ answers to interrogatories
16 obtained by the Attorney General from other law enforcement
17 officials, information voluntarily produced to the Attorney
18 General for purposes of any investigation conducted under
19 subsection (1), or information provided to the Attorney
20 General pursuant to the notice requirement of Section 7.2a
21 shall be treated as if produced pursuant to a subpoena served
22 pursuant to this Section for purposes of maintaining the
23 confidentiality of such information.

24 The changes made by this amendatory Act of the 103rd
25 General Assembly are inoperative on and after January 1, 2027.

26 (3) No person shall, with intent to avoid, evade, prevent,

1 or obstruct compliance in whole or in part by any person with
2 any duly served subpoena of the Attorney General under this
3 Act, knowingly remove from any place, conceal, withhold,
4 destroy, mutilate, alter, or by any other means falsify any
5 documentary material that is the subject of such subpoena. A
6 violation of this subsection is a Class A misdemeanor. The
7 Attorney General, with such assistance as he may from time to
8 time require of the State's Attorneys in the several counties,
9 shall investigate suspected violations of this subsection and
10 shall commence and try all prosecutions under this subsection.
11 (Source: P.A. 96-751, eff. 1-1-10; 96-1000, eff. 7-2-10.)

12 (740 ILCS 10/7.2a new)

13 Sec. 7.2a. Notification to the Attorney General.

14 (a) As used in this Section:

15 "Acquisition" means an agreement, arrangement, or activity
16 the consummation of which results in a person acquiring
17 directly or indirectly the control of another person.

18 "Acquisition" includes the acquisition of voting securities
19 and noncorporate interests, such as assets, capital stock,
20 membership interests, or equity interests.

21 "Contracting affiliation" means the formation of a
22 relationship between 2 or more entities that permits the
23 entities to negotiate jointly with health carriers or
24 third-party administrators over rates for professional medical
25 services, or for one entity to negotiate on behalf of the other

1 entity with health carriers or third-party administrators over
2 rates for professional medical services. "Contracting
3 affiliation" does not include arrangements among entities
4 under common ownership.

5 "Covered transaction" means any merger, acquisition, or
6 contracting affiliation between 2 or more health care
7 facilities or provider organizations not previously under
8 common ownership or contracting affiliation.

9 "Health care facility" means the following facilities,
10 organizations, and related persons:

11 (1) An ambulatory surgical treatment center required
12 to be licensed under the Ambulatory Surgical Treatment
13 Center Act.

14 (2) An institution, place, building, or agency
15 required to be licensed under the Hospital Licensing Act.

16 (3) A hospital, ambulatory surgical treatment center,
17 or kidney disease treatment center maintained by the State
18 or any department or agency thereof.

19 (4) A kidney disease treatment center, including a
20 free-standing hemodialysis unit required to meet the
21 requirements of 42 CFR 494 in order to be certified for
22 participation in Medicare and Medicaid under Titles XVIII
23 and XIX of the federal Social Security Act of 1935.

24 (5) An institution, place, building, or room used for
25 the performance of outpatient surgical procedures that is
26 leased, owned, or operated by or on behalf of an

1 out-of-state facility.

2 (6) An institution, place, building, or room used for
3 provision of a health care category of service, as defined
4 under the Illinois Health Facilities Planning Act,
5 including, but not limited to, cardiac catheterization and
6 open heart surgery.

7 With the exception of those health care facilities
8 specifically included in this Section, nothing in this Section
9 shall be intended to include facilities operated as a part of
10 the practice of a physician or other licensed health care
11 professional, whether practicing in his or her individual
12 capacity or within the legal structure of any partnership,
13 medical or professional corporation, or unincorporated medical
14 or professional group. Further, this Section shall not apply
15 to physicians or other licensed health care professional's
16 practices where such practices are carried out in a portion of
17 a health care facility under contract with such health care
18 facility by a physician or by other licensed health care
19 professionals, whether practicing in his or her individual
20 capacity or within the legal structure of any partnership,
21 medical or professional corporation, or unincorporated medical
22 or professional groups, unless the entity constructs,
23 modifies, or establishes a health care facility as
24 specifically defined in this Section.

25 "Health care services revenue" means the total revenue
26 received for health care services in the previous 12 months.

1 "Health carriers" has the meaning given to that term in
2 Section 10 of the Health Carrier External Review Act.

3 "Illinois health care entity" means a health care facility
4 or provider organization that has an office in or is doing
5 business in this State.

6 "Merger" means the consolidation of 2 or more
7 organizations, including 2 or more organizations joining
8 through a common parent organization or 2 or more
9 organizations forming a new organization, but does not include
10 a corporate reorganization.

11 "Out-of-state health care entity" means a health care
12 facility or provider organization that is not headquartered in
13 this State and does not do business in this State.

14 "Provider organization" means a corporation, partnership,
15 business trust, association, or organized group of persons,
16 whether incorporated or not, which is in the business of
17 health care delivery or management and that represents 20 or
18 more health care providers in contracting with health carriers
19 or third-party administrators for the payment of health care
20 services. "Provider organization" includes physician
21 organizations, physician-hospital organizations, independent
22 practice associations, provider networks, and accountable care
23 organizations.

24 "Third-party administrator" means an entity that
25 administers payments for health care services on behalf of a
26 client in exchange for an administrative fee.

1 (b) Health care facilities or provider organizations that
2 are party to a covered transaction shall provide notice of
3 such transaction to the Attorney General no later than 30 days
4 prior to the transaction closing or effective date of the
5 transaction.

6 Covered transactions between an Illinois health care
7 entity and an out-of-state health care entity must provide
8 notice under this subsection where the out-of-state entity
9 generates \$10,000,000 or more in annual revenue from patients
10 residing in this State.

11 (c) The written notice provided by the parties under
12 subsection (b) shall be provided as follows:

13 (1) For any health care facility or provider
14 organization that is a party to a covered transaction and
15 files a premerger notification with the Federal Trade
16 Commission or the United States Department of Justice, in
17 compliance with the Hart-Scott-Rodino Antitrust
18 Improvements Act of 1976, 15 U.S.C. 18a, the notice
19 requirement is satisfied by providing a copy of such
20 filing to the Attorney General at the same time as it is
21 provided to the federal government.

22 (2) For any health care facility that is a party to a
23 covered transaction that is not described in paragraph
24 (1), the notice requirement is satisfied when the
25 healthcare facility files an application for a change of
26 ownership with the Health Facilities and Services Review

1 Board, in compliance with the Illinois Health Facilities
2 Planning Act. The Health Facilities and Services Review
3 Board shall provide a copy of such filing to the Attorney
4 General at the same time as it is provided to the
5 applicable State legislators under subsection (a) of
6 Section 8.5 of the Illinois Health Facilities Planning
7 Act.

8 (3) For any health care facility or provider
9 organization that is a party to a covered transaction that
10 is not described in paragraph (1) or (2), written notice
11 provided by the parties must include:

12 (A) the names of the parties and their current
13 business address;

14 (B) identification of all locations where health
15 care services are currently provided by each party;

16 (C) a brief description of the nature and purpose
17 of the proposed transaction; and

18 (D) the anticipated effective date of the proposed
19 transaction.

20 Nothing in this subsection prohibits the parties to a
21 covered transaction from voluntarily providing additional
22 information to the Attorney General.

23 (d) The Attorney General may make any requests for
24 additional information from the parties that is relevant to
25 its investigation of the covered transaction within 30 days of
26 the date notice is received under subsections (b) and (c). If

1 the Attorney General requests additional information, the
2 covered transaction may not proceed until 30 days after the
3 parties have substantially complied with the request. Any
4 subsequent request for additional information by the Attorney
5 General shall not further delay the covered transaction from
6 proceeding. Nothing in this Section precludes the Attorney
7 General from conducting an investigation or enforcing State or
8 federal antitrust laws at a later date.

9 (e) Any health care facility or provider organization that
10 fails to comply with any provision of this Section is subject
11 to a civil penalty of not more than \$500 per day for each day
12 during which the health care facility or provider organization
13 is in violation of this Section.

14 Whenever the Attorney General has reason to believe that a
15 health care facility or provider organization has engaged in
16 or is engaging in a covered transaction without complying with
17 the provisions of this Section, the Attorney General may apply
18 for and obtain, in an action in the Circuit Court of Sangamon
19 or Cook County, a temporary restraining order or injunction,
20 or both, prohibiting the health care facility or provider
21 organization from continuing its noncompliance or doing any
22 act in furtherance thereof. The court may make such further
23 orders or judgments, at law or in equity, as may be necessary
24 to remedy such noncompliance.

25 Before bringing such an action or seeking to recover a
26 civil penalty, the Attorney General shall permit the health

1 care facility or provider organization to come into compliance
2 with this Section within 10 days of being notified of its
3 alleged noncompliance. The right to cure noncompliance does
4 not exist on or after the covered transaction's proposed or
5 actual closing date of the covered transaction, whichever is
6 sooner.

7 (f) This Section is repealed on January 1, 2027.

8 (740 ILCS 10/13 new)

9 Sec. 13. Antitrust Enforcement Fund. Any penalties
10 collected from an entity for violations of this Act shall be
11 deposited into the Antitrust Enforcement Fund, a special fund
12 created in the State treasury that is dedicated to enforcing
13 this Act.

14 This Section is repealed on January 1, 2027.

15 Section 99. Effective date. This Act takes effect January
16 1, 2024."