

1 AN ACT concerning health facilities.

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

4 Section 5. The Illinois Health Facilities Planning Act is  
5 amended by changing Section 3 and by adding Section 8.5 as  
6 follows:

7 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

8 (Section scheduled to be repealed on July 1, 2008)

9 Sec. 3. Definitions. As used in this Act:

10 "Health care facilities" means and includes the following  
11 facilities and organizations:

12 1. An ambulatory surgical treatment center required to  
13 be licensed pursuant to the Ambulatory Surgical Treatment  
14 Center Act;

15 2. An institution, place, building, or agency required  
16 to be licensed pursuant to the Hospital Licensing Act;

17 3. Skilled and intermediate long term care facilities  
18 licensed under the Nursing Home Care Act;

19 4. Hospitals, nursing homes, ambulatory surgical  
20 treatment centers, or kidney disease treatment centers  
21 maintained by the State or any department or agency  
22 thereof;

23 5. Kidney disease treatment centers, including a  
24 free-standing hemodialysis unit; and

25 6. An institution, place, building, or room used for  
26 the performance of outpatient surgical procedures that is  
27 leased, owned, or operated by or on behalf of an  
28 out-of-state facility.

29 No federally owned facility shall be subject to the  
30 provisions of this Act, nor facilities used solely for healing  
31 by prayer or spiritual means.

32 No facility licensed under the Supportive Residences

1 Licensing Act or the Assisted Living and Shared Housing Act  
2 shall be subject to the provisions of this Act.

3 A facility designated as a supportive living facility that  
4 is in good standing with the demonstration project established  
5 under Section 5-5.01a of the Illinois Public Aid Code shall not  
6 be subject to the provisions of this Act.

7 This Act does not apply to facilities granted waivers under  
8 Section 3-102.2 of the Nursing Home Care Act. However, if a  
9 demonstration project under that Act applies for a certificate  
10 of need to convert to a nursing facility, it shall meet the  
11 licensure and certificate of need requirements in effect as of  
12 the date of application.

13 This Act shall not apply to the closure of an entity or a  
14 portion of an entity licensed under the Nursing Home Care Act  
15 that elects to convert, in whole or in part, to an assisted  
16 living or shared housing establishment licensed under the  
17 Assisted Living and Shared Housing Act.

18 With the exception of those health care facilities  
19 specifically included in this Section, nothing in this Act  
20 shall be intended to include facilities operated as a part of  
21 the practice of a physician or other licensed health care  
22 professional, whether practicing in his individual capacity or  
23 within the legal structure of any partnership, medical or  
24 professional corporation, or unincorporated medical or  
25 professional group. Further, this Act shall not apply to  
26 physicians or other licensed health care professional's  
27 practices where such practices are carried out in a portion of  
28 a health care facility under contract with such health care  
29 facility by a physician or by other licensed health care  
30 professionals, whether practicing in his individual capacity  
31 or within the legal structure of any partnership, medical or  
32 professional corporation, or unincorporated medical or  
33 professional groups. This Act shall apply to construction or  
34 modification and to establishment by such health care facility  
35 of such contracted portion which is subject to facility  
36 licensing requirements, irrespective of the party responsible

1 for such action or attendant financial obligation.

2 "Person" means any one or more natural persons, legal  
3 entities, governmental bodies other than federal, or any  
4 combination thereof.

5 "Consumer" means any person other than a person (a) whose  
6 major occupation currently involves or whose official capacity  
7 within the last 12 months has involved the providing,  
8 administering or financing of any type of health care facility,  
9 (b) who is engaged in health research or the teaching of  
10 health, (c) who has a material financial interest in any  
11 activity which involves the providing, administering or  
12 financing of any type of health care facility, or (d) who is or  
13 ever has been a member of the immediate family of the person  
14 defined by (a), (b), or (c).

15 "State Board" means the Health Facilities Planning Board.

16 "Construction or modification" means the establishment,  
17 erection, building, alteration, reconstruction, modernization,  
18 improvement, extension, discontinuation, change of ownership,  
19 of or by a health care facility, or the purchase or acquisition  
20 by or through a health care facility of equipment or service  
21 for diagnostic or therapeutic purposes or for facility  
22 administration or operation, or any capital expenditure made by  
23 or on behalf of a health care facility which exceeds the  
24 capital expenditure minimum; however, any capital expenditure  
25 made by or on behalf of a health care facility for the  
26 construction or modification of a facility licensed under the  
27 Assisted Living and Shared Housing Act shall be excluded from  
28 any obligations under this Act.

29 "Establish" means the construction of a health care  
30 facility or the replacement of an existing facility on another  
31 site.

32 "Major medical equipment" means medical equipment which is  
33 used for the provision of medical and other health services and  
34 which costs in excess of the capital expenditure minimum,  
35 except that such term does not include medical equipment  
36 acquired by or on behalf of a clinical laboratory to provide

1 clinical laboratory services if the clinical laboratory is  
2 independent of a physician's office and a hospital and it has  
3 been determined under Title XVIII of the Social Security Act to  
4 meet the requirements of paragraphs (10) and (11) of Section  
5 1861(s) of such Act. In determining whether medical equipment  
6 has a value in excess of the capital expenditure minimum, the  
7 value of studies, surveys, designs, plans, working drawings,  
8 specifications, and other activities essential to the  
9 acquisition of such equipment shall be included.

10 "Capital Expenditure" means an expenditure: (A) made by or  
11 on behalf of a health care facility (as such a facility is  
12 defined in this Act); and (B) which under generally accepted  
13 accounting principles is not properly chargeable as an expense  
14 of operation and maintenance, or is made to obtain by lease or  
15 comparable arrangement any facility or part thereof or any  
16 equipment for a facility or part; and which exceeds the capital  
17 expenditure minimum.

18 For the purpose of this paragraph, the cost of any studies,  
19 surveys, designs, plans, working drawings, specifications, and  
20 other activities essential to the acquisition, improvement,  
21 expansion, or replacement of any plant or equipment with  
22 respect to which an expenditure is made shall be included in  
23 determining if such expenditure exceeds the capital  
24 expenditures minimum. Donations of equipment or facilities to a  
25 health care facility which if acquired directly by such  
26 facility would be subject to review under this Act shall be  
27 considered capital expenditures, and a transfer of equipment or  
28 facilities for less than fair market value shall be considered  
29 a capital expenditure for purposes of this Act if a transfer of  
30 the equipment or facilities at fair market value would be  
31 subject to review.

32 "Capital expenditure minimum" means \$6,000,000, which  
33 shall be annually adjusted to reflect the increase in  
34 construction costs due to inflation, for major medical  
35 equipment and for all other capital expenditures; provided,  
36 however, that when a capital expenditure is for the

1 construction or modification of a health and fitness center,  
2 "capital expenditure minimum" means the capital expenditure  
3 minimum for all other capital expenditures in effect on March  
4 1, 2000, which shall be annually adjusted to reflect the  
5 increase in construction costs due to inflation.

6 "Non-clinical service area" means an area (i) for the  
7 benefit of the patients, visitors, staff, or employees of a  
8 health care facility and (ii) not directly related to the  
9 diagnosis, treatment, or rehabilitation of persons receiving  
10 services from the health care facility. "Non-clinical service  
11 areas" include, but are not limited to, chapels; gift shops;  
12 news stands; computer systems; tunnels, walkways, and  
13 elevators; telephone systems; projects to comply with life  
14 safety codes; educational facilities; student housing;  
15 patient, employee, staff, and visitor dining areas;  
16 administration and volunteer offices; modernization of  
17 structural components (such as roof replacement and masonry  
18 work); boiler repair or replacement; vehicle maintenance and  
19 storage facilities; parking facilities; mechanical systems for  
20 heating, ventilation, and air conditioning; loading docks; and  
21 repair or replacement of carpeting, tile, wall coverings,  
22 window coverings or treatments, or furniture. Solely for the  
23 purpose of this definition, "non-clinical service area" does  
24 not include health and fitness centers.

25 "Areawide" means a major area of the State delineated on a  
26 geographic, demographic, and functional basis for health  
27 planning and for health service and having within it one or  
28 more local areas for health planning and health service. The  
29 term "region", as contrasted with the term "subregion", and the  
30 word "area" may be used synonymously with the term "areawide".

31 "Local" means a subarea of a delineated major area that on  
32 a geographic, demographic, and functional basis may be  
33 considered to be part of such major area. The term "subregion"  
34 may be used synonymously with the term "local".

35 "Areawide health planning organization" or "Comprehensive  
36 health planning organization" means the health systems agency

1 designated by the Secretary, Department of Health and Human  
2 Services or any successor agency.

3 "Local health planning organization" means those local  
4 health planning organizations that are designated as such by  
5 the areawide health planning organization of the appropriate  
6 area.

7 "Physician" means a person licensed to practice in  
8 accordance with the Medical Practice Act of 1987, as amended.

9 "Licensed health care professional" means a person  
10 licensed to practice a health profession under pertinent  
11 licensing statutes of the State of Illinois.

12 "Director" means the Director of the Illinois Department of  
13 Public Health.

14 "Agency" means the Illinois Department of Public Health.

15 "Comprehensive health planning" means health planning  
16 concerned with the total population and all health and  
17 associated problems that affect the well-being of people and  
18 that encompasses health services, health manpower, and health  
19 facilities; and the coordination among these and with those  
20 social, economic, and environmental factors that affect  
21 health.

22 "Alternative health care model" means a facility or program  
23 authorized under the Alternative Health Care Delivery Act.

24 "Out-of-state facility" means a person that is both (i)  
25 licensed as a hospital or as an ambulatory surgery center under  
26 the laws of another state or that qualifies as a hospital or an  
27 ambulatory surgery center under regulations adopted pursuant  
28 to the Social Security Act and (ii) not licensed under the  
29 Ambulatory Surgical Treatment Center Act, the Hospital  
30 Licensing Act, or the Nursing Home Care Act. Affiliates of  
31 out-of-state facilities shall be considered out-of-state  
32 facilities. Affiliates of Illinois licensed health care  
33 facilities 100% owned by an Illinois licensed health care  
34 facility, its parent, or Illinois physicians licensed to  
35 practice medicine in all its branches shall not be considered  
36 out-of-state facilities. Nothing in this definition shall be

1 construed to include an office or any part of an office of a  
2 physician licensed to practice medicine in all its branches in  
3 Illinois that is not required to be licensed under the  
4 Ambulatory Surgical Treatment Center Act.

5 "Change of ownership of a health care facility" means a  
6 change in the person who has ownership or control of a health  
7 care facility's physical plant and capital assets. A change in  
8 ownership is indicated by the following transactions: sale,  
9 transfer, acquisition, lease, change of sponsorship, or other  
10 means of transferring control.

11 "Related person" means any person that: (i) is at least 50%  
12 owned, directly or indirectly, by either the health care  
13 facility or a person owning, directly or indirectly, at least  
14 50% of the health care facility; or (ii) owns, directly or  
15 indirectly, at least 50% of the health care facility.

16 "Charity care" means care provided by a health care  
17 facility for which the provider does not expect to receive  
18 payment from the patient or a third-party payer.

19 (Source: P.A. 93-41, eff. 6-27-03.)

20 (20 ILCS 3960/8.5 new)

21 Sec. 8.5. Certificate of exemption for change of ownership  
22 of a health care facility; public notice and public hearing.

23 (a) Upon a finding by the Department of Public Health that  
24 an application for a change of ownership is complete, the  
25 Department of Public Health shall publish a legal notice on 3  
26 consecutive days in a newspaper of general circulation in the  
27 area or community to be affected and afford the public an  
28 opportunity to request a hearing. If the application is for a  
29 facility located in a Metropolitan Statistical Area, an  
30 additional legal notice shall be published in a newspaper of  
31 limited circulation, if one exists, in the area in which the  
32 facility is located. If the newspaper of limited circulation is  
33 published on a daily basis, the additional legal notice shall  
34 be published on 3 consecutive days. The legal notice shall also  
35 be posted on the Illinois Health Facilities Planning Board's

1 web site and sent to the State Representative and State Senator  
2 of the district in which the health care facility is located.  
3 The Department of Public Health shall not find that an  
4 application for change of ownership of a hospital is complete  
5 without a signed certification that for a period of 2 years  
6 after the change of ownership transaction is effective, the  
7 hospital will not adopt a charity care policy that is more  
8 restrictive than the policy in effect during the year prior to  
9 the transaction.

10 For the purposes of this subsection, "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 (b) If a public hearing is requested, it shall be held at  
17 least 15 days but no more than 30 days after the date of  
18 publication of the legal notice in the community in which the  
19 facility is located. The hearing shall be held in a place of  
20 reasonable size and accessibility and a full and complete  
21 written transcript of the proceedings shall be made. The  
22 applicant shall provide a summary of the proposed change of  
23 ownership for distribution at the public hearing.