



Rep. Deborah L. Graham

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LRB093 18334 AMC 49469 a

1 AMENDMENT TO HOUSE BILL 6769

2 AMENDMENT NO. _____. Amend House Bill 6769 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 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8 (Section scheduled to be repealed on July 1, 2008)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 3. Skilled and intermediate long term care facilities
20 licensed under the Nursing Home Care Act;

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

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

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

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

10 No facility licensed under the Supportive Residences
11 Licensing Act or the Assisted Living and Shared Housing Act
12 shall be subject to the provisions of this Act.

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

17 This Act does not apply to facilities granted waivers under
18 Section 3-102.2 of the Nursing Home Care Act. However, if a
19 demonstration project under that Act applies for a certificate
20 of need to convert to a nursing facility, it shall meet the
21 licensure and certificate of need requirements in effect as of
22 the date of application.

23 This Act shall not apply to the closure of an entity or a
24 portion of an entity licensed under the Nursing Home Care Act
25 that elects to convert, in whole or in part, to an assisted
26 living or shared housing establishment licensed under the
27 Assisted Living and Shared Housing Act.

28 With the exception of those health care facilities
29 specifically included in this Section, nothing in this Act
30 shall be intended to include facilities operated as a part of
31 the practice of a physician or other licensed health care
32 professional, whether practicing in his individual capacity or
33 within the legal structure of any partnership, medical or
34 professional corporation, or unincorporated medical or

1 professional group. Further, this Act shall not apply to
2 physicians or other licensed health care professional's
3 practices where such practices are carried out in a portion of
4 a health care facility under contract with such health care
5 facility by a physician or by other licensed health care
6 professionals, whether practicing in his individual capacity
7 or within the legal structure of any partnership, medical or
8 professional corporation, or unincorporated medical or
9 professional groups. This Act shall apply to construction or
10 modification and to establishment by such health care facility
11 of such contracted portion which is subject to facility
12 licensing requirements, irrespective of the party responsible
13 for such action or attendant financial obligation.

14 "Person" means any one or more natural persons, legal
15 entities, governmental bodies other than federal, or any
16 combination thereof.

17 "Consumer" means any person other than a person (a) whose
18 major occupation currently involves or whose official capacity
19 within the last 12 months has involved the providing,
20 administering or financing of any type of health care facility,
21 (b) who is engaged in health research or the teaching of
22 health, (c) who has a material financial interest in any
23 activity which involves the providing, administering or
24 financing of any type of health care facility, or (d) who is or
25 ever has been a member of the immediate family of the person
26 defined by (a), (b), or (c).

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

28 "Construction or modification" means the establishment,
29 erection, building, alteration, reconstruction, modernization,
30 improvement, extension, discontinuation, change of ownership,
31 of or by a health care facility, or the purchase or acquisition
32 by or through a health care facility of equipment or service
33 for diagnostic or therapeutic purposes or for facility
34 administration or operation, or any capital expenditure made by

1 or on behalf of a health care facility which exceeds the
2 capital expenditure minimum; however, any capital expenditure
3 made by or on behalf of a health care facility for the
4 construction or modification of a facility licensed under the
5 Assisted Living and Shared Housing Act shall be excluded from
6 any obligations under this Act.

7 "Establish" means the construction of a health care
8 facility or the replacement of an existing facility on another
9 site.

10 "Major medical equipment" means medical equipment which is
11 used for the provision of medical and other health services and
12 which costs in excess of the capital expenditure minimum,
13 except that such term does not include medical equipment
14 acquired by or on behalf of a clinical laboratory to provide
15 clinical laboratory services if the clinical laboratory is
16 independent of a physician's office and a hospital and it has
17 been determined under Title XVIII of the Social Security Act to
18 meet the requirements of paragraphs (10) and (11) of Section
19 1861(s) of such Act. In determining whether medical equipment
20 has a value in excess of the capital expenditure minimum, the
21 value of studies, surveys, designs, plans, working drawings,
22 specifications, and other activities essential to the
23 acquisition of such equipment shall be included.

24 "Capital Expenditure" means an expenditure: (A) made by or
25 on behalf of a health care facility (as such a facility is
26 defined in this Act); and (B) which under generally accepted
27 accounting principles is not properly chargeable as an expense
28 of operation and maintenance, or is made to obtain by lease or
29 comparable arrangement any facility or part thereof or any
30 equipment for a facility or part; and which exceeds the capital
31 expenditure minimum.

32 For the purpose of this paragraph, the cost of any studies,
33 surveys, designs, plans, working drawings, specifications, and
34 other activities essential to the acquisition, improvement,

1 expansion, or replacement of any plant or equipment with
2 respect to which an expenditure is made shall be included in
3 determining if such expenditure exceeds the capital
4 expenditures minimum. Donations of equipment or facilities to a
5 health care facility which if acquired directly by such
6 facility would be subject to review under this Act shall be
7 considered capital expenditures, and a transfer of equipment or
8 facilities for less than fair market value shall be considered
9 a capital expenditure for purposes of this Act if a transfer of
10 the equipment or facilities at fair market value would be
11 subject to review.

12 "Capital expenditure minimum" means \$6,000,000, which
13 shall be annually adjusted to reflect the increase in
14 construction costs due to inflation, for major medical
15 equipment and for all other capital expenditures; provided,
16 however, that when a capital expenditure is for the
17 construction or modification of a health and fitness center,
18 "capital expenditure minimum" means the capital expenditure
19 minimum for all other capital expenditures in effect on March
20 1, 2000, which shall be annually adjusted to reflect the
21 increase in construction costs due to inflation.

22 "Non-clinical service area" means an area (i) for the
23 benefit of the patients, visitors, staff, or employees of a
24 health care facility and (ii) not directly related to the
25 diagnosis, treatment, or rehabilitation of persons receiving
26 services from the health care facility. "Non-clinical service
27 areas" include, but are not limited to, chapels; gift shops;
28 news stands; computer systems; tunnels, walkways, and
29 elevators; telephone systems; projects to comply with life
30 safety codes; educational facilities; student housing;
31 patient, employee, staff, and visitor dining areas;
32 administration and volunteer offices; modernization of
33 structural components (such as roof replacement and masonry
34 work); boiler repair or replacement; vehicle maintenance and

1 storage facilities; parking facilities; mechanical systems for
2 heating, ventilation, and air conditioning; loading docks; and
3 repair or replacement of carpeting, tile, wall coverings,
4 window coverings or treatments, or furniture. Solely for the
5 purpose of this definition, "non-clinical service area" does
6 not include health and fitness centers.

7 "Areawide" means a major area of the State delineated on a
8 geographic, demographic, and functional basis for health
9 planning and for health service and having within it one or
10 more local areas for health planning and health service. The
11 term "region", as contrasted with the term "subregion", and the
12 word "area" may be used synonymously with the term "areawide".

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

17 "Areawide health planning organization" or "Comprehensive
18 health planning organization" means the health systems agency
19 designated by the Secretary, Department of Health and Human
20 Services or any successor agency.

21 "Local health planning organization" means those local
22 health planning organizations that are designated as such by
23 the areawide health planning organization of the appropriate
24 area.

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

27 "Licensed health care professional" means a person
28 licensed to practice a health profession under pertinent
29 licensing statutes of the State of Illinois.

30 "Director" means the Director of the Illinois Department of
31 Public Health.

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

33 "Comprehensive health planning" means health planning
34 concerned with the total population and all health and

1 associated problems that affect the well-being of people and
2 that encompasses health services, health manpower, and health
3 facilities; and the coordination among these and with those
4 social, economic, and environmental factors that affect
5 health.

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

8 "Out-of-state facility" means a person that is both (i)
9 licensed as a hospital or as an ambulatory surgery center under
10 the laws of another state or that qualifies as a hospital or an
11 ambulatory surgery center under regulations adopted pursuant
12 to the Social Security Act and (ii) not licensed under the
13 Ambulatory Surgical Treatment Center Act, the Hospital
14 Licensing Act, or the Nursing Home Care Act. Affiliates of
15 out-of-state facilities shall be considered out-of-state
16 facilities. Affiliates of Illinois licensed health care
17 facilities 100% owned by an Illinois licensed health care
18 facility, its parent, or Illinois physicians licensed to
19 practice medicine in all its branches shall not be considered
20 out-of-state facilities. Nothing in this definition shall be
21 construed to include an office or any part of an office of a
22 physician licensed to practice medicine in all its branches in
23 Illinois that is not required to be licensed under the
24 Ambulatory Surgical Treatment Center Act.

25 "Change of ownership of a health care facility" means a
26 change in the person who has ownership or control of a health
27 care facility's physical plant and capital assets. A change in
28 ownership is indicated by the following transactions: sale,
29 transfer, acquisition, lease, change of sponsorship, or other
30 means of transferring control.

31 "Related person" means any person that: (i) is at least 50%
32 owned, directly or indirectly, by either the health care
33 facility or a person owning, directly or indirectly, at least
34 50% of the health care facility; or (ii) owns, directly or

1 indirectly, at least 50% of the health care facility.

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

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

6 (20 ILCS 3960/8.5 new)

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

9 (a) Upon a finding by the Department of Public Health that
10 an application for a change of ownership is complete, the
11 Department of Public Health shall publish a legal notice on 3
12 consecutive days in a newspaper of general circulation in the
13 area or community to be affected and afford the public an
14 opportunity to request a hearing. If the application is for a
15 facility located in a Metropolitan Statistical Area, an
16 additional legal notice shall be published in a newspaper of
17 limited circulation, if one exists, in the area in which the
18 facility is located. If the newspaper of limited circulation is
19 published on a daily basis, the additional legal notice shall
20 be published on 3 consecutive days. The legal notice shall also
21 be posted on the Illinois Health Facilities Planning Board's
22 web site and sent to the State Representative and State Senator
23 of the district in which the health care facility is located.
24 The Department of Public Health shall not find that an
25 application for change of ownership of a hospital is complete
26 without a signed certification that for a period of 2 years
27 after the change of ownership transaction is effective, the
28 hospital will not adopt a charity care policy that is more
29 restrictive than the policy in effect during the year prior to
30 the transaction.

31 For the purposes of this subsection, "newspaper of limited
32 circulation" means a newspaper intended to serve a particular
33 or defined population of a specific geographic area within a

1 Metropolitan Statistical Area such as a municipality, town,
2 village, township, or community area, but does not include
3 publications of professional and trade associations.

4 (b) If a public hearing is requested, it shall be held at
5 least 15 days but no more than 30 days after the date of
6 publication of the legal notice in the community in which the
7 facility is located. The hearing shall be held in a place of
8 reasonable size and accessibility and a full and complete
9 written transcript of the proceedings shall be made. The
10 applicant shall provide a summary of the proposed change of
11 ownership for distribution at the public hearing."