

1 AN ACT concerning hospitals.

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

4 Section 5. The Hospital Licensing Act is amended by
5 changing Sections 8, 8.5, 9, 9.2, and 9.3 and adding Sections
6 9.4, 9.5, and 9.6 as follows:

7 (210 ILCS 85/8) (from Ch. 111 1/2, par. 149)

8 Sec. 8. Facility plan review; fees.

9 (a) Before commencing construction of new facilities or
10 specified types of alteration or additions to an existing
11 hospital involving major construction, as defined by rule by
12 the Department, with an estimated cost greater than \$100,000,
13 architectural plans and specifications therefor shall be
14 submitted by the licensee to the Department for review and
15 approval. A hospital may submit architectural drawings and
16 specifications for other construction projects for Department
17 review according to subsection (b) that shall not be subject
18 to fees under subsection (d). The Department must give a
19 hospital that is planning to submit a construction project
20 for review the opportunity to discuss its plans and
21 specifications with the Department before the hospital
22 formally submits the plans and specifications for Department
23 review. Review of drawings and specifications shall be
24 conducted by an employee of the Department meeting the
25 qualifications established by the Department of Central
26 Management Services class specifications for such an
27 individual's position or by a person contracting with the
28 Department who meets those class specifications. Final
29 approval of the plans and specifications for compliance with
30 design and construction standards shall be obtained from the
31 Department before the alteration, addition, or new

1 construction is begun.

2 (b) The Department shall inform an applicant in writing
3 within 10 working days after receiving drawings and
4 specifications and the required fee, if any, from the
5 applicant whether the applicant's submission is complete or
6 incomplete. Failure to provide the applicant with this
7 notice within 10 working days shall result in the submission
8 being deemed complete for purposes of initiating the 60-day
9 review period under this Section. If the submission is
10 incomplete, the Department shall inform the applicant of the
11 deficiencies with the submission in writing. If the
12 submission is complete and the required fee, if any, has been
13 paid, the Department shall approve or disapprove drawings and
14 specifications submitted to the Department no later than 60
15 days following receipt by the Department. The drawings and
16 specifications shall be of sufficient detail, as provided by
17 Department rule, to enable the Department to render a
18 determination of compliance with design and construction
19 standards under this Act. If the Department finds that the
20 drawings are not of sufficient detail for it to render a
21 determination of compliance, the plans shall be determined to
22 be incomplete and shall not be considered for purposes of
23 initiating the 60 day review period. If a submission of
24 drawings and specifications is incomplete, the applicant may
25 submit additional information. The 60-day review period
26 shall not commence until the Department determines that a
27 submission of drawings and specifications is complete or the
28 submission is deemed complete. If the Department has not
29 approved or disapproved the drawings and specifications
30 within 60 days, the construction, major alteration, or
31 addition shall be deemed approved. If the drawings and
32 specifications are disapproved, the Department shall state in
33 writing, with specificity, the reasons for the disapproval.
34 The entity submitting the drawings and specifications may

1 submit additional information in response to the written
2 comments from the Department or request a reconsideration of
3 the disapproval. A final decision of approval or disapproval
4 shall be made within 45 days of the receipt of the additional
5 information or reconsideration request. If denied, the
6 Department shall state the specific reasons for the denial
7 and the applicant may elect to seek dispute resolution
8 pursuant to Section 25 of the Illinois Building Commission
9 Act, which the Department must participate in.

10 (c) The Department shall provide written approval for
11 occupancy pursuant to subsection (g) and shall not issue a
12 violation to a facility as a result of a licensure or
13 complaint survey based upon the facility's physical structure
14 if:

15 (1) the Department reviewed and approved or deemed
16 approved the drawing and specifications for compliance
17 with design and construction standards;

18 (2) the construction, major alteration, or addition
19 was built as submitted;

20 (3) the law or rules have not been amended since
21 the original approval; and

22 (4) the conditions at the facility indicate that
23 there is a reasonable degree of safety provided for the
24 patients; and

25 (5) the inspected aspects of the facility were
26 found to be in compliance with applicable standards, the
27 relevant law or rules have not been amended since the
28 facility was found to be in compliance, conditions at the
29 facility reasonably protect the safety of its patients,
30 and new hazards have not been identified.

31 (d) The Department shall charge the following fees in
32 connection with its reviews conducted before June 30, 2004
33 under this Section:

34 (1) (Blank).

1 (2) (Blank).

2 (3) If the estimated dollar value of the major
3 construction is greater than \$500,000, the fee shall be
4 established by the Department pursuant to rules that
5 reflect the reasonable and direct cost of the Department
6 in conducting the architectural reviews required under
7 this Section. The estimated dollar value of the major
8 construction subject to review under this Section shall
9 be annually readjusted to reflect the increase in
10 construction costs due to inflation.

11 The fees provided in this subsection (d) shall not apply
12 to major construction projects involving facility changes
13 that are required by Department rule amendments or to
14 projects related to homeland security.

15 The fees provided in this subsection (d) shall also not
16 apply to major construction projects if 51% or more of the
17 estimated cost of the project is attributed to capital
18 equipment. For major construction projects where 51% or more
19 of the estimated cost of the project is attributed to capital
20 equipment, the Department shall by rule establish a fee that
21 is reasonably related to the cost of reviewing the project.

22 Disproportionate share hospitals and rural hospitals
23 shall only pay one-half of the fees required in this
24 subsection (d). For the purposes of this subsection (d), (i)
25 "disproportionate share hospital" means a hospital described
26 in items (1) through (5) of subsection (b) of Section 5-5.02
27 of the Illinois Public Aid Code and (ii) "rural hospital"
28 means a hospital that is (A) located outside a metropolitan
29 statistical area or (B) located 15 miles or less from a
30 county that is outside a metropolitan statistical area and is
31 licensed to perform medical/surgical or obstetrical services
32 and has a combined total bed capacity of 75 or fewer beds in
33 these 2 service categories as of July 14, 1993, as determined
34 by the Department.

1 The Department shall not commence the facility plan
2 review process under this Section until the applicable fee
3 has been paid.

4 (e) All fees received by the Department under this
5 Section shall be deposited into the Health Facility Plan
6 Review Fund, a special fund created in the State treasury.
7 All fees paid by hospitals under subsection (d) shall be used
8 only to cover the direct and reasonable costs relating to the
9 Department's review of hospital projects under this Section.
10 Moneys shall be appropriated from that Fund to the Department
11 only to pay the costs of conducting reviews under this
12 Section. None of the moneys in the Health Facility Plan
13 Review Fund shall be used to reduce the amount of General
14 Revenue Fund moneys appropriated to the Department for
15 facility plan reviews conducted pursuant to this Section.

16 (f) (Blank).

17 (g) The Department shall conduct an on-site inspection
18 of the completed project no later than 10 business 30 days
19 after notification from the applicant that the project has
20 been completed and all certifications required by the
21 Department have been received and accepted by the Department.
22 The Department shall provide written approval for occupancy
23 to the applicant within 5 working days of the Department's
24 final inspection, provided the applicant has demonstrated
25 substantial compliance as defined by Department rule.
26 Occupancy of new major construction is prohibited until
27 Department approval is received, unless the Department has
28 not acted within the time frames provided in this subsection
29 (g), in which case the construction shall be deemed approved.
30 Occupancy shall be authorized after any required health
31 inspection by the Department has been conducted.

32 (h) The Department shall establish, by rule, a procedure
33 to conduct interim on-site review of large or complex
34 construction projects.

1 (i) The Department shall establish, by rule, an
2 expedited process for emergency repairs or replacement of
3 like equipment.

4 (j) Nothing in this Section shall be construed to apply
5 to maintenance, upkeep, or renovation that does not affect
6 the structural integrity of the building, does not add beds
7 or services over the number for which the facility is
8 licensed, and provides a reasonable degree of safety for the
9 patients.

10 (Source: P.A. 91-712, eff. 7-1-00; 92-563, eff. 6-24-02;
11 92-803, eff. 8-16-02; revised 9-19-02.)

12 (210 ILCS 85/8.5)

13 Sec. 8.5. Waiver of compliance with rules or standards
14 ~~for--construction--or--physical-plant~~. Upon application by a
15 hospital, the Department may grant or renew the waiver of the
16 hospital's compliance with a ~~construction-or--physical--plant~~
17 rule or standard, including without limitation rules and
18 standards for (i) design and construction, (ii) engineering
19 and maintenance of the physical plant, site, equipment, and
20 systems (heating, cooling, electrical, ventilation, plumbing,
21 water, sewer, and solid waste disposal), and (iii) fire and
22 safety, and (iv) other rules or standards that may present a
23 barrier to the development, adoption, or implementation of an
24 innovation designed to improve patient care, for a period not
25 to exceed the duration of the current license or, in the case
26 of an application for license renewal, the duration of the
27 renewal period. The waiver may be conditioned upon the
28 hospital taking action prescribed by the Department as a
29 measure equivalent to compliance. In determining whether to
30 grant or renew a waiver, the Department shall consider the
31 duration and basis for any current waiver with respect to the
32 same rule or standard and the validity and effect upon
33 patient health and safety of extending it on the same basis,

1 the effect upon the health and safety of patients, the
2 quality of patient care, the hospital's history of compliance
3 with the rules and standards of this Act, and the hospital's
4 attempts to comply with the particular rule or standard in
5 question. The Department may provide, by rule, for the
6 automatic renewal of waivers concerning construction or
7 physical plant requirements upon the renewal of a license.
8 The Department shall renew waivers relating to construction
9 or physical plant standards issued pursuant to this Section
10 at the time of the indicated reviews, unless it can show why
11 such waivers should not be extended for the following
12 reasons:

13 (1) the condition of the physical plant has
14 deteriorated or its use substantially changed so that the
15 basis upon which the waiver was issued is materially
16 different; or

17 (2) the hospital is renovated or substantially
18 remodeled in such a way as to permit compliance with the
19 applicable rules and standards without substantial
20 increase in cost.

21 A copy of each waiver application and each waiver granted
22 or renewed shall be on file with the Department and available
23 for public inspection.

24 The Department shall advise hospitals of any applicable
25 federal waivers about which it is aware and for which the
26 hospital may apply.

27 In the event that the Department does not grant or renew
28 a waiver of a rule or standard, the Department must notify
29 the hospital in writing detailing the specific reasons for
30 not granting or renewing the waiver and must discuss possible
31 options, if any, the hospital could take to have the waiver
32 approved.

33 This Section shall apply to both new and existing
34 construction.

1 (Source: P.A. 92-803, eff. 8-16-02.)

2 (210 ILCS 85/9) (from Ch. 111 1/2, par. 150)

3 Sec. 9. Inspections and investigations. The Department
4 shall make or cause to be made such inspections and
5 investigations as it deems necessary. Upon arrival at the
6 hospital, the Department's inspector or investigator must
7 inform the hospital of the scope of the investigation with
8 references to the particular statutory or regulatory
9 provisions triggering the inspection or investigation. If
10 the scope of an inspection is expanded beyond what was
11 originally disclosed to the hospital, the surveyor must
12 inform the hospital's administrator or designee. This
13 information must be provided before the inspector or
14 investigator leaves the hospital premises. Information
15 received by the Department through filed reports, inspection,
16 or as otherwise authorized under this Act shall not be
17 disclosed publicly in such manner as to identify individuals
18 or hospitals, except (i) in a proceeding involving the
19 denial, suspension, or revocation of a permit to establish a
20 hospital or a proceeding involving the denial, suspension, or
21 revocation of a license to open, conduct, operate, and
22 maintain a hospital, (ii) to the Department of Children and
23 Family Services in the course of a child abuse or neglect
24 investigation conducted by that Department or by the
25 Department of Public Health, (iii) in accordance with Section
26 6.14a of this Act, or (iv) in other circumstances as may be
27 approved by the Hospital Licensing Board.

28 (Source: P.A. 90-608, eff. 6-30-98; 91-242, eff. 1-1-00.)

29 (210 ILCS 85/9.2)

30 Sec. 9.2. Disclosure. Prior to conducting a survey of a
31 hospital operating under an approved waiver, equivalency, or
32 other approval, a surveyor must be made aware of the waiver,

1 equivalency, or other approval prior to entering the
 2 hospital. Prior to commencing an inspection, the Department
 3 must provide the hospital with documentation that the survey
 4 is being conducted, with consideration of the relevant
 5 waiver, equivalency, or approval. After--conducting--the
 6 survey,--the--Department--must--conduct--a--comprehensive--exit
 7 interview--with--designated--hospital--representatives--at--which
 8 the--hospital--may--present--additional--information--regarding
 9 findings.

10 (Source: P.A. 92-803, eff. 8-16-02.)

11 (210 ILCS 85/9.3)

12 Sec. 9.3. Informal dispute resolution. The Department
 13 must offer an opportunity for informal dispute resolution
 14 concerning the application of building codes for new and
 15 existing construction and other related Department rules and
 16 standards before the advisory committee under subsection (b)
 17 of Section 2310-560 of the Department of Public Health Powers
 18 and Duties Law of the Civil Administrative Code of Illinois.
 19 Participants in this process must include representatives
 20 from the Department, representatives of the hospital, and
 21 additional representatives deemed appropriate by both parties
 22 with expertise regarding the contested deficiencies and the
 23 management of health care facilities. If the Department does
 24 not resolve disputed deficiencies after the informal dispute
 25 resolution process, the Department must provide a written
 26 explanation to the hospital of why the deficiencies have not
 27 been removed from the statement of deficiencies.

28 (Source: P.A. 92-803, eff. 8-16-02.)

29 (210 ILCS 85/9.4 new)

30 Sec. 9.4. Status and exit briefings. If there are
 31 significant findings during inspections, investigations, or
 32 surveys, the Department must offer a daily status briefing

1 with the hospital administrator or his or her designee to
2 disclose the findings before the inspector, investigator, or
3 surveyor leaves for the day. At the end of each inspection,
4 investigation, or survey the Department must have a detailed
5 and comprehensive exit briefing with the hospital to disclose
6 its preliminary findings and conclusions. As part of these
7 briefings, the Department inspector, investigator, or
8 surveyor must explain to the provider what the deficiency is
9 in terms specific enough to allow a reasonably knowledgeable
10 person to understand why the requirement is not met.
11 Surveyors must explain the requirements and why something is
12 a deficiency. A data tag or reiteration of the regulations
13 must not be used as a substitute for an explanation.

14 (210 ILCS 85/9.5 new)

15 Sec. 9.5. Findings, conclusions, and citations. The
16 Department must consider any factual information offered by
17 the hospital during the survey, inspection, or investigation,
18 at daily status briefings, and in the exit briefing required
19 under Section 9.4 before making final findings and
20 conclusions or issuing citations. The Department must
21 document receipt of such information and provide the hospital
22 with its findings and conclusions regarding this information
23 in addition to any other findings and conclusions of its
24 survey, investigation, or inspection. The Department must
25 provide the hospital with written notice of its findings and
26 conclusions within 10 days of the exit briefing required
27 under Section 9.4. This notice must provide the following
28 information: (i) identification of all deficiencies and areas
29 of noncompliance with applicable law; (ii) identification of
30 the applicable statutes, rules, codes, or standards that were
31 violated; and (iii) the factual basis for each deficiency or
32 violation.

1 (210 ILCS 85/9.6 new)

2 Sec. 9.6. Reviewer quality improvement. The Department
3 must implement a reviewer performance improvement program for
4 hospital survey, inspection, and investigation staff. The
5 Department must also review the work of each of its
6 surveyors, inspectors, and investigators on a quarterly basis
7 to assess whether its surveyors, inspectors, and
8 investigators: (i) apply the same protocols and criteria
9 consistently to substantially similar situations; (ii) reach
10 similar findings and conclusions when reviewing substantially
11 similar situations; (iii) conduct surveys, inspections, or
12 investigations in a professional manner; and (iv) comply with
13 the provisions of this Act. The Department must also
14 implement continuing education programs for its surveyors,
15 inspectors, and investigators to correct review inconsistency
16 and to reduce review time and expense.