

1 AMENDMENT TO SENATE BILL 1332

2 AMENDMENT NO. _____. Amend Senate Bill 1332 by replacing
3 everything after the enacting clause with the following:

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

1 review. Review of drawings and specifications shall be
2 conducted by an employee of the Department meeting the
3 qualifications established by the Department of Central
4 Management Services class specifications for such an
5 individual's position or by a person contracting with the
6 Department who meets those class specifications. Final
7 approval of the plans and specifications for compliance with
8 design and construction standards shall be obtained from the
9 Department before the alteration, addition, or new
10 construction is begun.

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

1 shall not commence until the Department determines that a
2 submission of drawings and specifications is complete or the
3 submission is deemed complete. If the Department has not
4 approved or disapproved the drawings and specifications
5 within 60 days, the construction, major alteration, or
6 addition shall be deemed approved. If the drawings and
7 specifications are disapproved, the Department shall state in
8 writing, with specificity, the reasons for the disapproval.
9 The entity submitting the drawings and specifications may
10 submit additional information in response to the written
11 comments from the Department or request a reconsideration of
12 the disapproval. A final decision of approval or disapproval
13 shall be made within 45 days of the receipt of the additional
14 information or reconsideration request. If denied, the
15 Department shall state the specific reasons for the denial
16 and the applicant may elect to seek dispute resolution
17 pursuant to Section 25 of the Illinois Building Commission
18 Act, which the Department must participate in.

19 (c) The Department shall provide written approval for
20 occupancy pursuant to subsection (g) and shall not issue a
21 violation to a facility as a result of a licensure or
22 complaint survey based upon the facility's physical structure
23 if:

24 (1) the Department reviewed and approved or deemed
25 approved the drawing and specifications for compliance
26 with design and construction standards;

27 (2) the construction, major alteration, or addition
28 was built as submitted;

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

31 (4) the conditions at the facility indicate that
32 there is a reasonable degree of safety provided for the
33 patients.

34 (c-5) The Department shall not issue a violation to a

1 facility if the inspected aspects of the facility were
2 previously found to be in compliance with applicable
3 standards, the relevant law or rules have not been amended,
4 conditions at the facility reasonably protect the safety of
5 its patients, and alterations or new hazards have not been
6 identified.

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

10 (1) (Blank).

11 (2) (Blank).

12 (3) If the estimated dollar value of the major
13 construction is greater than \$500,000, the fee shall be
14 established by the Department pursuant to rules that
15 reflect the reasonable and direct cost of the Department
16 in conducting the architectural reviews required under
17 this Section. The estimated dollar value of the major
18 construction subject to review under this Section shall
19 be annually readjusted to reflect the increase in
20 construction costs due to inflation.

21 The fees provided in this subsection (d) shall not apply
22 to major construction projects involving facility changes
23 that are required by Department rule amendments or to
24 projects related to homeland security.

25 The fees provided in this subsection (d) shall also not
26 apply to major construction projects if 51% or more of the
27 estimated cost of the project is attributed to capital
28 equipment. For major construction projects where 51% or more
29 of the estimated cost of the project is attributed to capital
30 equipment, the Department shall by rule establish a fee that
31 is reasonably related to the cost of reviewing the project.

32 Disproportionate share hospitals and rural hospitals
33 shall only pay one-half of the fees required in this
34 subsection (d). For the purposes of this subsection (d), (i)

1 "disproportionate share hospital" means a hospital described
2 in items (1) through (5) of subsection (b) of Section 5-5.02
3 of the Illinois Public Aid Code and (ii) "rural hospital"
4 means a hospital that is (A) located outside a metropolitan
5 statistical area or (B) located 15 miles or less from a
6 county that is outside a metropolitan statistical area and is
7 licensed to perform medical/surgical or obstetrical services
8 and has a combined total bed capacity of 75 or fewer beds in
9 these 2 service categories as of July 14, 1993, as determined
10 by the Department.

11 The Department shall not commence the facility plan
12 review process under this Section until the applicable fee
13 has been paid.

14 (e) All fees received by the Department under this
15 Section shall be deposited into the Health Facility Plan
16 Review Fund, a special fund created in the State treasury.
17 All fees paid by hospitals under subsection (d) shall be used
18 only to cover the direct and reasonable costs relating to the
19 Department's review of hospital projects under this Section.
20 Moneys shall be appropriated from that Fund to the Department
21 only to pay the costs of conducting reviews under this
22 Section. None of the moneys in the Health Facility Plan
23 Review Fund shall be used to reduce the amount of General
24 Revenue Fund moneys appropriated to the Department for
25 facility plan reviews conducted pursuant to this Section.

26 (f) (Blank).

27 (g) The Department shall conduct an on-site inspection
28 of the completed project no later than 15 business 30 days
29 after notification from the applicant that the project has
30 been completed and all certifications required by the
31 Department have been received and accepted by the Department.
32 The Department may extend this deadline only if a federally
33 mandated survey time frame takes precedence. The Department
34 shall provide written approval for occupancy to the applicant

1 within 5 working days of the Department's final inspection,
 2 provided the applicant has demonstrated substantial
 3 compliance as defined by Department rule. Occupancy of new
 4 major construction is prohibited until Department approval is
 5 received, unless the Department has not acted within the time
 6 frames provided in this subsection (g), in which case the
 7 construction shall be deemed approved. Occupancy shall be
 8 authorized after any required health inspection by the
 9 Department has been conducted.

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

13 (i) The Department shall establish, by rule, an
 14 expedited process for emergency repairs or replacement of
 15 like equipment.

16 (j) Nothing in this Section shall be construed to apply
 17 to maintenance, upkeep, or renovation that does not affect
 18 the structural integrity of the building, does not add beds
 19 or services over the number for which the facility is
 20 licensed, and provides a reasonable degree of safety for the
 21 patients.

22 (Source: P.A. 91-712, eff. 7-1-00; 92-563, eff. 6-24-02;
 23 92-803, eff. 8-16-02; revised 9-19-02.)

24 (210 ILCS 85/8.5)

25 Sec. 8.5. Waiver or alternative compliance ~~of--compliance~~
 26 ~~with--rules--or-standards-for-construction-or-physical-plant.~~
 27 Upon application by a hospital, the Department may grant or
 28 renew a the waiver or alternative compliance methodology ~~of~~
 29 ~~the-hospital's-compliance~~ with a ~~construction--or--physical~~
 30 ~~plant~~ rule or standard, including without limitation rules
 31 and standards for (i) design and construction, (ii)
 32 engineering and maintenance of the physical plant, site,
 33 equipment, and systems (heating, cooling, electrical,

1 ventilation, plumbing, water, sewer, and solid waste
2 disposal), and (iii) fire and safety, and (iv) other rules or
3 standards that may present a barrier to the development,
4 adoption, or implementation of an innovation designed to
5 improve patient care, for a period not to exceed the duration
6 of the current license or, in the case of an application for
7 license renewal, the duration of the renewal period. The
8 waiver may be conditioned upon the hospital taking action
9 prescribed by the Department as a measure equivalent to
10 compliance. In determining whether to grant or renew a
11 waiver, the Department shall consider the duration and basis
12 for any current waiver with respect to the same rule or
13 standard and the validity and effect upon patient health and
14 safety of extending it on the same basis, the effect upon the
15 health and safety of patients, the quality of patient care,
16 the hospital's history of compliance with the rules and
17 standards of this Act, and the hospital's attempts to comply
18 with the particular rule or standard in question. The
19 Department may provide, by rule, for the automatic renewal of
20 waivers concerning construction or physical plant
21 requirements upon the renewal of a license. The Department
22 shall renew waivers relating to construction or physical
23 plant standards issued pursuant to this Section at the time
24 of the indicated reviews, unless it can show why such waivers
25 should not be extended for the following reasons:

26 (1) the condition of the physical plant has
27 deteriorated or its use substantially changed so that the
28 basis upon which the waiver was issued is materially
29 different; or

30 (2) the hospital is renovated or substantially
31 remodeled in such a way as to permit compliance with the
32 applicable rules and standards without substantial
33 increase in cost.

34 A copy of each waiver application and each waiver granted

1 or renewed shall be on file with the Department and available
2 for public inspection.

3 The Department shall advise hospitals of any applicable
4 federal waivers about which it is aware and for which the
5 hospital may apply.

6 In the event that the Department does not grant or renew
7 a waiver of a rule or standard, the Department must notify
8 the hospital in writing detailing the specific reasons for
9 not granting or renewing the waiver and must discuss possible
10 options, if any, the hospital could take to have the waiver
11 approved.

12 This Section shall apply to both new and existing
13 construction.

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

15 (210 ILCS 85/9) (from Ch. 111 1/2, par. 150)

16 Sec. 9. Inspections and investigations. The Department
17 shall make or cause to be made such inspections and
18 investigations as it deems necessary. Upon arrival at the
19 hospital, the Department's inspector or investigator must
20 inform the hospital of the scope of the investigation with
21 references to the particular statutory or regulatory
22 provisions triggering the inspection or investigation. If
23 the scope of an inspection is expanded beyond what was
24 originally disclosed to the hospital, the surveyor must
25 inform the hospital's administrator or designee. This
26 information must be provided before the inspector or
27 investigator leaves the hospital premises, if possible.

28 Information received by the Department through filed reports,
29 inspection, or as otherwise authorized under this Act shall
30 not be disclosed publicly in such manner as to identify
31 individuals or hospitals, except (i) in a proceeding
32 involving the denial, suspension, or revocation of a permit
33 to establish a hospital or a proceeding involving the denial,

1 suspension, or revocation of a license to open, conduct,
 2 operate, and maintain a hospital, (ii) to the Department of
 3 Children and Family Services in the course of a child abuse
 4 or neglect investigation conducted by that Department or by
 5 the Department of Public Health, (iii) in accordance with
 6 Section 6.14a of this Act, or (iv) in other circumstances as
 7 may be approved by the Hospital Licensing Board.

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

9 (210 ILCS 85/9.2)

10 Sec. 9.2. Disclosure. Prior to conducting a survey of a
 11 hospital operating under an approved waiver, equivalency, or
 12 other approval, a surveyor must be made aware of the waiver,
 13 equivalency, or other approval prior to entering the
 14 hospital. Prior to commencing an inspection, the Department
 15 must provide the hospital with documentation that the survey
 16 is being conducted, with consideration of the relevant
 17 waiver, equivalency, or approval. After--conducting--the
 18 survey,--the--Department--must--conduct--a--comprehensive--exit
 19 interview--with--designated--hospital--representatives--at--which
 20 the--hospital--may--present--additional--information--regarding
 21 findings.

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

23 (210 ILCS 85/9.3)

24 Sec. 9.3. Informal dispute resolution. The Department
 25 must offer an opportunity for informal dispute resolution
 26 concerning the--application--of--building--codes--for--new--and
 27 existing--construction--and--related Department rules and
 28 standards before the advisory committee under subsection (b)
 29 of Section 2310-560 of the Department of Public Health Powers
 30 and Duties Law of the Civil Administrative Code of Illinois.
 31 Participants in this process must include representatives
 32 from the Department, representatives of the hospital, and

1 additional representatives deemed appropriate by both parties
2 with expertise regarding the contested deficiencies and the
3 management of health care facilities. If the Department does
4 not resolve disputed deficiencies after the informal dispute
5 resolution process, the Department must provide a written
6 explanation to the hospital of why the deficiencies have not
7 been removed from the statement of deficiencies.

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

9 (210 ILCS 85/9.4 new)

10 Sec. 9.4. Status and exit briefings. If there are
11 significant findings during inspections, investigations, or
12 surveys, the Department must offer a daily status briefing
13 with the hospital administrator or his or her designee to
14 disclose the potential findings before the inspector,
15 investigator, or surveyor leaves for the day. At the end of
16 each inspection, investigation, or survey the Department must
17 have a detailed and comprehensive exit briefing with the
18 hospital to disclose its preliminary findings and
19 conclusions. As part of these briefings, the Department
20 inspector, investigator, or surveyor must explain to the
21 provider what the deficiency is in terms specific enough to
22 allow a reasonably knowledgeable person to understand why the
23 requirement is not met. Surveyors must explain the
24 requirements and why something is a deficiency. A data tag
25 or reiteration of the regulations must not be used as a
26 substitute for an explanation.

27 (210 ILCS 85/9.5 new)

28 Sec. 9.5. Findings, conclusions, and citations. The
29 Department must consider any factual information offered by
30 the hospital during the survey, inspection, or investigation,
31 at daily status briefings, and in the exit briefing required
32 under Section 9.4 before making final findings and

1 conclusions or issuing citations. The Department must
2 document receipt of such information. The Department must
3 provide the hospital with written notice of its findings and
4 conclusions within 10 days of the exit briefing required
5 under Section 9.4. This notice must provide the following
6 information: (i) identification of all deficiencies and areas
7 of noncompliance with applicable law; (ii) identification of
8 the applicable statutes, rules, codes, or standards that were
9 violated; and (iii) the factual basis for each deficiency or
10 violation.

11 (210 ILCS 85/9.6 new)

12 Sec. 9.6. Reviewer quality improvement. The Department
13 must implement a reviewer performance improvement program for
14 hospital survey, inspection, and investigation staff. The
15 Department must also, on a quarterly basis, assess whether
16 its surveyors, inspectors, and investigators: (i) apply the
17 same protocols and criteria consistently to substantially
18 similar situations; (ii) reach similar findings and
19 conclusions when reviewing substantially similar situations;
20 (iii) conduct surveys, inspections, or investigations in a
21 professional manner; and (iv) comply with the provisions of
22 this Act. The Department must also implement continuing
23 education programs for its surveyors, inspectors, and
24 investigators pursuant to the findings of the performance
25 improvement program."