



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB3387

Introduced 7/14/2004, by Sen. Kirk W. Dillard - Steven J. Rauschenberger - Christine Radogno

SYNOPSIS AS INTRODUCED:

- 5 ILCS 120/1.02 from Ch. 102, par. 41.02
5 ILCS 430/5-50
20 ILCS 3960/Act rep.
30 ILCS 5/3-1 from Ch. 15, par. 303-1
30 ILCS 105/5.213 rep. from Ch. 127, par. 141.213
70 ILCS 910/15 from Ch. 23, par. 1265
210 ILCS 3/20
210 ILCS 3/30
210 ILCS 3/36.5 rep.
210 ILCS 9/10
210 ILCS 9/145
210 ILCS 9/155
210 ILCS 40/2 from Ch. 111 1/2, par. 4160-2
210 ILCS 40/7 from Ch. 111 1/2, par. 4160-7
210 ILCS 45/3-102.2
210 ILCS 45/3-103 from Ch. 111 1/2, par. 4153-103
210 ILCS 50/32.5
210 ILCS 85/4.5
210 ILCS 85/10.8
225 ILCS 7/4 rep.
225 ILCS 47/5
225 ILCS 47/15
225 ILCS 47/20
225 ILCS 47/30
225 ILCS 47/35
225 ILCS 47/40
225 ILCS 510/3 from Ch. 111, par. 953
305 ILCS 5/5-5.01a
305 ILCS 5/5-5.02 from Ch. 23, par. 5-5.02
405 ILCS 25/4.03 rep. from Ch. 91 1/2, par. 604.03

Repeals the Illinois Health Facilities Planning Act and abolishes the Health Facilities Planning Board. Amends the Health Care Worker Self-Referral Act to transfer the Board's functions under that Act to the Department of Public Health. Amends various other Acts to eliminate references to the Board or the Act. Effective immediately.

LRB093 22834 AMC 52643 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning State agencies.

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

4 Section 5. The Open Meetings Act is amended by changing
5 Section 1.02 as follows:

6 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

7 Sec. 1.02. For the purposes of this Act:

8 "Meeting" means any gathering of a majority of a quorum of
9 the members of a public body held for the purpose of discussing
10 public business.

11 "Public body" includes all legislative, executive,
12 administrative or advisory bodies of the State, counties,
13 townships, cities, villages, incorporated towns, school
14 districts and all other municipal corporations, boards,
15 bureaus, committees or commissions of this State, and any
16 subsidiary bodies of any of the foregoing including but not
17 limited to committees and subcommittees which are supported in
18 whole or in part by tax revenue, or which expend tax revenue,
19 except the General Assembly and committees or commissions
20 thereof. "Public body" includes tourism boards and convention
21 or civic center boards located in counties that are contiguous
22 to the Mississippi River with populations of more than 250,000
23 but less than 300,000. ~~"Public body" includes the Health~~
24 ~~Facilities Planning Board.~~ "Public body" does not include a
25 child death review team or the Illinois Child Death Review
26 Teams Executive Council established under the Child Death
27 Review Team Act or an ethics commission acting under the State
28 Officials and Employees Ethics Act.

29 (Source: P.A. 92-468, eff. 8-22-01; 93-617, eff. 12-9-03.)

30 Section 10. The State Officials and Employees Ethics Act is
31 amended by changing Section 5-50 as follows:

1 (5 ILCS 430/5-50)

2 Sec. 5-50. Ex parte communications; special government
3 agents.

4 (a) This Section applies to ex parte communications made to
5 any agency listed in subsection (e).

6 (b) "Ex parte communication" means any written or oral
7 communication by any person that imparts or requests material
8 information or makes a material argument regarding potential
9 action concerning regulatory, quasi-adjudicatory, investment,
10 or licensing matters pending before or under consideration by
11 the agency. "Ex parte communication" does not include the
12 following: (i) statements by a person publicly made in a public
13 forum; (ii) statements regarding matters of procedure and
14 practice, such as format, the number of copies required, the
15 manner of filing, and the status of a matter; and (iii)
16 statements made by a State employee of the agency to the agency
17 head or other employees of that agency.

18 (b-5) An ex parte communication received by an agency,
19 agency head, or other agency employee from an interested party
20 or his or her official representative or attorney shall
21 promptly be memorialized and made a part of the record.

22 (c) An ex parte communication received by any agency,
23 agency head, or other agency employee, other than an ex parte
24 communication described in subsection (b-5), shall immediately
25 be reported to that agency's ethics officer by the recipient of
26 the communication and by any other employee of that agency who
27 responds to the communication. The ethics officer shall require
28 that the ex parte communication be promptly made a part of the
29 record. The ethics officer shall promptly file the ex parte
30 communication with the Executive Ethics Commission, including
31 all written communications, all written responses to the
32 communications, and a memorandum prepared by the ethics officer
33 stating the nature and substance of all oral communications,
34 the identity and job title of the person to whom each
35 communication was made, all responses made, the identity and

1 job title of the person making each response, the identity of
2 each person from whom the written or oral ex parte
3 communication was received, the individual or entity
4 represented by that person, any action the person requested or
5 recommended, and any other pertinent information. The
6 disclosure shall also contain the date of any ex parte
7 communication.

8 (d) "Interested party" means a person or entity whose
9 rights, privileges, or interests are the subject of or are
10 directly affected by a regulatory, quasi-adjudicatory,
11 investment, or licensing matter.

12 (e) This Section applies to the following agencies:

13 Executive Ethics Commission

14 Illinois Commerce Commission

15 Educational Labor Relations Board

16 State Board of Elections

17 Illinois Gaming Board

18 ~~Health Facilities Planning Board~~

19 Industrial Commission

20 Illinois Labor Relations Board

21 Illinois Liquor Control Commission

22 Pollution Control Board

23 Property Tax Appeal Board

24 Illinois Racing Board

25 Illinois Purchased Care Review Board

26 Department of State Police Merit Board

27 Motor Vehicle Review Board

28 Prisoner Review Board

29 Civil Service Commission

30 Personnel Review Board for the Treasurer

31 Merit Commission for the Secretary of State

32 Merit Commission for the Office of the Comptroller

33 Court of Claims

34 Board of Review of the Department of Employment Security

35 Department of Insurance

36 Department of Professional Regulation and licensing boards

1 under the Department
2 Department of Public Health and licensing boards under the
3 Department
4 Office of Banks and Real Estate and licensing boards under
5 the Office
6 State Employees Retirement System Board of Trustees
7 Judges Retirement System Board of Trustees
8 General Assembly Retirement System Board of Trustees
9 Illinois Board of Investment
10 State Universities Retirement System Board of Trustees
11 Teachers Retirement System Officers Board of Trustees

12 (f) Any person who fails to (i) report an ex parte
13 communication to an ethics officer, (ii) make information part
14 of the record, or (iii) make a filing with the Executive Ethics
15 Commission as required by this Section or as required by
16 Section 5-165 of the Illinois Administrative Procedure Act
17 violates this Act.

18 (Source: P.A. 93-617, eff. 12-9-03.)

19 (20 ILCS 3960/Act rep.)

20 Section 15. The Illinois Health Facilities Planning Act is
21 repealed.

22 Section 20. The Illinois State Auditing Act is amended by
23 changing Section 3-1 as follows:

24 (30 ILCS 5/3-1) (from Ch. 15, par. 303-1)

25 Sec. 3-1. Jurisdiction of Auditor General. The Auditor
26 General has jurisdiction over all State agencies to make post
27 audits and investigations authorized by or under this Act or
28 the Constitution.

29 The Auditor General has jurisdiction over local government
30 agencies and private agencies only:

31 (a) to make such post audits authorized by or under
32 this Act as are necessary and incidental to a post audit of
33 a State agency or of a program administered by a State

1 agency involving public funds of the State, but this
2 jurisdiction does not include any authority to review local
3 governmental agencies in the obligation, receipt,
4 expenditure or use of public funds of the State that are
5 granted without limitation or condition imposed by law,
6 other than the general limitation that such funds be used
7 for public purposes;

8 (b) to make investigations authorized by or under this
9 Act or the Constitution; and

10 (c) to make audits of the records of local government
11 agencies to verify actual costs of state-mandated programs
12 when directed to do so by the Legislative Audit Commission
13 at the request of the State Board of Appeals under the
14 State Mandates Act.

15 In addition to the foregoing, the Auditor General may
16 conduct an audit of the Metropolitan Pier and Exposition
17 Authority, the Regional Transportation Authority, the Suburban
18 Bus Division, the Commuter Rail Division and the Chicago
19 Transit Authority and any other subsidized carrier when
20 authorized by the Legislative Audit Commission. Such audit may
21 be a financial, management or program audit, or any combination
22 thereof.

23 The audit shall determine whether they are operating in
24 accordance with all applicable laws and regulations. Subject to
25 the limitations of this Act, the Legislative Audit Commission
26 may by resolution specify additional determinations to be
27 included in the scope of the audit.

28 In addition to the foregoing, the Auditor General must also
29 conduct a financial audit of the Illinois Sports Facilities
30 Authority's expenditures of public funds in connection with the
31 reconstruction, renovation, remodeling, extension, or
32 improvement of all or substantially all of any existing
33 "facility", as that term is defined in the Illinois Sports
34 Facilities Authority Act.

35 The Auditor General may also conduct an audit, when
36 authorized by the Legislative Audit Commission, of any hospital

1 which receives 10% or more of its gross revenues from payments
2 from the State of Illinois, Department of Public Aid, Medical
3 Assistance Program.

4 The Auditor General is authorized to conduct financial and
5 compliance audits of the Illinois Distance Learning Foundation
6 and the Illinois Conservation Foundation.

7 As soon as practical after the effective date of this
8 amendatory Act of 1995, the Auditor General shall conduct a
9 compliance and management audit of the City of Chicago and any
10 other entity with regard to the operation of Chicago O'Hare
11 International Airport, Chicago Midway Airport and Merrill C.
12 Meigs Field. The audit shall include, but not be limited to, an
13 examination of revenues, expenses, and transfers of funds;
14 purchasing and contracting policies and practices; staffing
15 levels; and hiring practices and procedures. When completed,
16 the audit required by this paragraph shall be distributed in
17 accordance with Section 3-14.

18 The Auditor General shall conduct a financial and
19 compliance and program audit of distributions from the
20 Municipal Economic Development Fund during the immediately
21 preceding calendar year pursuant to Section 8-403.1 of the
22 Public Utilities Act at no cost to the city, village, or
23 incorporated town that received the distributions.

24 ~~The Auditor General must conduct an audit of the Health~~
25 ~~Facilities Planning Board pursuant to Section 19.5 of the~~
26 ~~Illinois Health Facilities Planning Act.~~

27 The Auditor General of the State of Illinois shall annually
28 conduct or cause to be conducted a financial and compliance
29 audit of the books and records of any county water commission
30 organized pursuant to the Water Commission Act of 1985 and
31 shall file a copy of the report of that audit with the Governor
32 and the Legislative Audit Commission. The filed audit shall be
33 open to the public for inspection. The cost of the audit shall
34 be charged to the county water commission in accordance with
35 Section 6z-27 of the State Finance Act. The county water
36 commission shall make available to the Auditor General its

1 books and records and any other documentation, whether in the
2 possession of its trustees or other parties, necessary to
3 conduct the audit required. These audit requirements apply only
4 through July 1, 2007.

5 The Auditor General must conduct audits of the Rend Lake
6 Conservancy District as provided in Section 25.5 of the River
7 Conservancy Districts Act.

8 (Source: P.A. 93-226, eff. 7-22-03; 93-259, eff. 7-22-03;
9 93-275, eff. 7-22-03; revised 8-25-03.)

10 (30 ILCS 105/5.213 rep.) (from Ch. 127, par. 141.213)

11 Section 25. The State Finance Act is amended by repealing
12 Section 5.213.

13 Section 30. The Hospital District Law is amended by
14 changing Section 15 as follows:

15 (70 ILCS 910/15) (from Ch. 23, par. 1265)

16 Sec. 15. A Hospital District shall constitute a municipal
17 corporation and body politic separate and apart from any other
18 municipality, the State of Illinois or any other public or
19 governmental agency and shall have and exercise the following
20 governmental powers, and all other powers incidental,
21 necessary, convenient, or desirable to carry out and effectuate
22 such express powers.

23 1. To establish and maintain a hospital and hospital
24 facilities within or outside its corporate limits, and to
25 construct, acquire, develop, expand, extend and improve any
26 such hospital or hospital facility. If a Hospital District
27 utilizes its authority to levy a tax pursuant to Section 20 of
28 this Act for the purpose of establishing and maintaining
29 hospitals or hospital facilities, such District shall be
30 prohibited from establishing and maintaining hospitals or
31 hospital facilities located outside of its district unless so
32 authorized by referendum. To approve the provision of any
33 service and to approve any contract or other arrangement not

1 prohibited by a hospital licensed under the Hospital Licensing
2 Act, incorporated under the General Not-For-Profit Corporation
3 Act, and exempt from taxation under paragraph (3) of subsection
4 (c) of Section 501 of the Internal Revenue Code.

5 2. To acquire land in fee simple, rights in land and
6 easements upon, over or across land and leasehold interests in
7 land and tangible and intangible personal property used or
8 useful for the location, establishment, maintenance,
9 development, expansion, extension or improvement of any such
10 hospital or hospital facility. Such acquisition may be by
11 dedication, purchase, gift, agreement, lease, use or adverse
12 possession or by condemnation.

13 3. To operate, maintain and manage such hospital and
14 hospital facility, and to make and enter into contracts for the
15 use, operation or management of and to provide rules and
16 regulations for the operation, management or use of such
17 hospital or hospital facility.

18 Such contracts may include the lease by the District of all
19 or any portion of its facilities to a not-for-profit
20 corporation organized by the District's board of directors. The
21 rent to be paid pursuant to any such lease shall be in an
22 amount deemed appropriate by the board of directors. Any of the
23 remaining assets which are not the subject of such a lease may
24 be conveyed and transferred to the not-for-profit corporation
25 organized by the District's board of directors provided that
26 the not-for-profit corporation agrees to discharge or assume
27 such debts, liabilities, and obligations of the District as
28 determined to be appropriate by the District's board of
29 directors.

30 4. To fix, charge and collect reasonable fees and
31 compensation for the use or occupancy of such hospital or any
32 part thereof, or any hospital facility, and for nursing care,
33 medicine, attendance, or other services furnished by such
34 hospital or hospital facilities, according to the rules and
35 regulations prescribed by the board from time to time.

36 5. To borrow money and to issue general obligation bonds,

1 revenue bonds, notes, certificates, or other evidences of
2 indebtedness for the purpose of accomplishing any of its
3 corporate purposes, subject to compliance with any conditions
4 or limitations set forth in this Act ~~or the Health Facilities~~
5 ~~Planning Act~~ or otherwise provided by the constitution of the
6 State of Illinois and to execute, deliver, and perform
7 mortgages and security agreements to secure such borrowing.

8 6. To employ or enter into contracts for the employment of
9 any person, firm, or corporation, and for professional
10 services, necessary or desirable for the accomplishment of the
11 corporate objects of the District or the proper administration,
12 management, protection or control of its property.

13 7. To maintain such hospital for the benefit of the
14 inhabitants of the area comprising the District who are sick,
15 injured, or maimed regardless of race, creed, religion, sex,
16 national origin or color, and to adopt such reasonable rules
17 and regulations as may be necessary to render the use of the
18 hospital of the greatest benefit to the greatest number; to
19 exclude from the use of the hospital all persons who wilfully
20 disregard any of the rules and regulations so established; to
21 extend the privileges and use of the hospital to persons
22 residing outside the area of the District upon such terms and
23 conditions as the board of directors prescribes by its rules
24 and regulations.

25 8. To police its property and to exercise police powers in
26 respect thereto or in respect to the enforcement of any rule or
27 regulation provided by the ordinances of the District and to
28 employ and commission police officers and other qualified
29 persons to enforce the same.

30 The use of any such hospital or hospital facility of a
31 District shall be subject to the reasonable regulation and
32 control of the District and upon such reasonable terms and
33 conditions as shall be established by its board of directors.

34 A regulatory ordinance of a District adopted under any
35 provision of this Section may provide for a suspension or
36 revocation of any rights or privileges within the control of

1 the District for a violation of any such regulatory ordinance.

2 Nothing in this Section or in other provisions of this Act
3 shall be construed to authorize the District or board to
4 establish or enforce any regulation or rule in respect to
5 hospitalization or in the operation or maintenance of such
6 hospital or any hospital facilities within its jurisdiction
7 which is in conflict with any federal or state law or
8 regulation applicable to the same subject matter.

9 9. To provide for the benefit of its employees group life,
10 health, accident, hospital and medical insurance, or any
11 combination of such types of insurance, and to further provide
12 for its employees by the establishment of a pension or
13 retirement plan or system; to effectuate the establishment of
14 any such insurance program or pension or retirement plan or
15 system, a Hospital District may make, enter into or subscribe
16 to agreements, contracts, policies or plans with private
17 insurance companies. Such insurance may include provisions for
18 employees who rely on treatment by spiritual means alone
19 through prayer for healing in accord with the tenets and
20 practice of a well-recognized religious denomination. The
21 board of directors of a Hospital District may provide for
22 payment by the District of a portion of the premium or charge
23 for such insurance or for a pension or retirement plan for
24 employees with the employee paying the balance of such premium
25 or charge. If the board of directors of a Hospital District
26 undertakes a plan pursuant to which the Hospital District pays
27 a portion of such premium or charge, the board shall provide
28 for the withholding and deducting from the compensation of such
29 employees as consent to joining such insurance program or
30 pension or retirement plan or system, the balance of the
31 premium or charge for such insurance or plan or system.

32 If the board of directors of a Hospital District does not
33 provide for a program or plan pursuant to which such District
34 pays a portion of the premium or charge for any group insurance
35 program or pension or retirement plan or system, the board may
36 provide for the withholding and deducting from the compensation

1 of such employees as consent thereto the premium or charge for
2 any group life, health, accident, hospital and medical
3 insurance or for any pension or retirement plan or system.

4 A Hospital District deducting from the compensation of its
5 employees for any group insurance program or pension or
6 retirement plan or system, pursuant to this Section, may agree
7 to receive and may receive reimbursement from the insurance
8 company for the cost of withholding and transferring such
9 amount to the company.

10 10. Except as provided in Section 15.3, to sell at public
11 auction or by sealed bid and convey any real estate held by the
12 District which the board of directors, by ordinance adopted by
13 at least 2/3rds of the members of the board then holding
14 office, has determined to be no longer necessary or useful to,
15 or for the best interests of, the District.

16 An ordinance directing the sale of real estate shall
17 include the legal description of the real estate, its present
18 use, a statement that the property is no longer necessary or
19 useful to, or for the best interests of, the District, the
20 terms and conditions of the sale, whether the sale is to be at
21 public auction or sealed bid, and the date, time, and place the
22 property is to be sold at auction or sealed bids opened.

23 Before making a sale by virtue of the ordinance, the board
24 of directors shall cause notice of the proposal to sell to be
25 published once each week for 3 successive weeks in a newspaper
26 published, or, if none is published, having a general
27 circulation, in the district, the first publication to be not
28 less than 30 days before the day provided in the notice for the
29 public sale or opening of bids for the real estate.

30 The notice of the proposal to sell shall include the same
31 information included in the ordinance directing the sale and
32 shall advertise for bids therefor. A sale of property by public
33 auction shall be held at the property to be sold at a time and
34 date determined by the board of directors. The board of
35 directors may accept the high bid or any other bid determined
36 to be in the best interests of the district by a vote of 2/3rds

1 of the board then holding office, but by a majority vote of
2 those holding office, they may reject any and all bids.

3 The chairman and secretary of the board of directors shall
4 execute all documents necessary for the conveyance of such real
5 property sold pursuant to the foregoing authority.

6 11. To establish and administer a program of loans for
7 postsecondary students pursuing degrees in accredited public
8 health-related educational programs at public institutions of
9 higher education. If a student is awarded a loan, the
10 individual shall agree to accept employment within the hospital
11 district upon graduation from the public institution of higher
12 education. For the purposes of this Act, "public institutions
13 of higher education" means the University of Illinois; Southern
14 Illinois University; Chicago State University; Eastern
15 Illinois University; Governors State University; Illinois
16 State University; Northeastern Illinois University; Northern
17 Illinois University; Western Illinois University; the public
18 community colleges of the State; and any other public colleges,
19 universities or community colleges now or hereafter
20 established or authorized by the General Assembly. The
21 district's board of directors shall by resolution provide for
22 eligibility requirements, award criteria, terms of financing,
23 duration of employment accepted within the district and such
24 other aspects of the loan program as its establishment and
25 administration may necessitate.

26 12. To establish and maintain congregate housing units; to
27 acquire land in fee simple and leasehold interests in land for
28 the location, establishment, maintenance, and development of
29 those housing units; to borrow funds and give debt instruments,
30 real estate mortgages, and security interests in personal
31 property, contract rights, and general intangibles; and to
32 enter into any contract required for participation in any
33 federal or State programs.

34 (Source: P.A. 92-534, eff. 5-14-02; 92-611, eff. 7-3-02.)

35 Section 35. The Alternative Health Care Delivery Act is

1 amended by changing Sections 20, 30, and 36.5 as follows:

2 (210 ILCS 3/20)

3 Sec. 20. Board responsibilities. The State Board of Health
4 shall have the responsibilities set forth in this Section.

5 (a) The Board shall investigate new health care delivery
6 models and recommend to the Governor and the General Assembly,
7 through the Department, those models that should be authorized
8 as alternative health care models for which demonstration
9 programs should be initiated. In its deliberations, the Board
10 shall use the following criteria:

11 (1) The feasibility of operating the model in Illinois,
12 based on a review of the experience in other states
13 including the impact on health professionals of other
14 health care programs or facilities.

15 (2) The potential of the model to meet an unmet need.

16 (3) The potential of the model to reduce health care
17 costs to consumers, costs to third party payors, and
18 aggregate costs to the public.

19 (4) The potential of the model to maintain or improve
20 the standards of health care delivery in some measurable
21 fashion.

22 (5) The potential of the model to provide increased
23 choices or access for patients.

24 (b) The Board shall evaluate and make recommendations to
25 the Governor and the General Assembly, through the Department,
26 regarding alternative health care model demonstration programs
27 established under this Act, at the midpoint and end of the
28 period of operation of the demonstration programs. The report
29 shall include, at a minimum, the following:

30 (1) Whether the alternative health care models
31 improved access to health care for their service
32 populations in the State.

33 (2) The quality of care provided by the alternative
34 health care models as may be evidenced by health outcomes,
35 surveillance reports, and administrative actions taken by

1 the Department.

2 (3) The cost and cost effectiveness to the public,
3 third-party payors, and government of the alternative
4 health care models, including the impact of pilot programs
5 on aggregate health care costs in the area. In addition to
6 any other information collected by the Board under this
7 Section, the Board shall collect from postsurgical
8 recovery care centers uniform billing data substantially
9 the same as specified in Section 4-2(e) of the Illinois
10 Health Finance Reform Act. To facilitate its evaluation of
11 that data, the Board shall forward a copy of the data to
12 the Illinois Health Care Cost Containment Council. All
13 patient identifiers shall be removed from the data before
14 it is submitted to the Board or Council.

15 (4) The impact of the alternative health care models on
16 the health care system in that area, including changing
17 patterns of patient demand and utilization, financial
18 viability, and feasibility of operation of service in
19 inpatient and alternative models in the area.

20 (5) The implementation by alternative health care
21 models of any special commitments made during application
22 review ~~to the Illinois Health Facilities Planning Board.~~

23 (6) The continuation, expansion, or modification of
24 the alternative health care models.

25 (c) The Board shall advise the Department on the definition
26 and scope of alternative health care models demonstration
27 programs.

28 (d) In carrying out its responsibilities under this
29 Section, the Board shall seek the advice of other Department
30 advisory boards or committees that may be impacted by the
31 alternative health care model or the proposed model of health
32 care delivery. The Board shall also seek input from other
33 interested parties, which may include holding public hearings.

34 (e) The Board shall otherwise advise the Department on the
35 administration of the Act as the Board deems appropriate.

36 (Source: P.A. 87-1188; 88-441.)

1 (210 ILCS 3/30)

2 Sec. 30. Demonstration program requirements. The
3 requirements set forth in this Section shall apply to
4 demonstration programs.

5 (a) There shall be no more than:

6 (i) 3 subacute care hospital alternative health care
7 models in the City of Chicago (one of which shall be
8 located on a designated site and shall have been licensed
9 as a hospital under the Illinois Hospital Licensing Act
10 within the 10 years immediately before the application for
11 a license);

12 (ii) 2 subacute care hospital alternative health care
13 models in the demonstration program for each of the
14 following areas:

15 (1) Cook County outside the City of Chicago.

16 (2) DuPage, Kane, Lake, McHenry, and Will
17 Counties.

18 (3) Municipalities with a population greater than
19 50,000 not located in the areas described in item (i)
20 of subsection (a) and paragraphs (1) and (2) of item
21 (ii) of subsection (a); and

22 (iii) 4 subacute care hospital alternative health care
23 models in the demonstration program for rural areas.

24 In selecting among applicants for these licenses in rural
25 areas, ~~the Health Facilities Planning Board and~~ the Department
26 shall give preference to hospitals that may be unable for
27 economic reasons to provide continued service to the community
28 in which they are located unless the hospital were to receive
29 an alternative health care model license.

30 (a-5) There shall be no more than a total of 12
31 postsurgical recovery care center alternative health care
32 models in the demonstration program, located as follows:

33 (1) Two in the City of Chicago.

34 (2) Two in Cook County outside the City of Chicago. At
35 least one of these shall be owned or operated by a hospital

1 devoted exclusively to caring for children.

2 (3) Two in Kane, Lake, and McHenry Counties.

3 (4) Four in municipalities with a population of 50,000
4 or more not located in the areas described in paragraphs
5 (1), (2), and (3), 3 of which shall be owned or operated by
6 hospitals, at least 2 of which shall be located in counties
7 with a population of less than 175,000, according to the
8 most recent decennial census for which data are available,
9 and one of which shall be owned or operated by an
10 ambulatory surgical treatment center.

11 (5) Two in rural areas, both of which shall be owned or
12 operated by hospitals.

13 There shall be no postsurgical recovery care center
14 alternative health care models located in counties with
15 populations greater than 600,000 but less than 1,000,000. A
16 proposed postsurgical recovery care center must be owned or
17 operated by a hospital if it is to be located within, or will
18 primarily serve the residents of, a health service area in
19 which more than 60% of the gross patient revenue of the
20 hospitals within that health service area are derived from
21 Medicaid and Medicare, according to the most recently available
22 calendar year data from the Illinois Health Care Cost
23 Containment Council. Nothing in this paragraph shall preclude a
24 hospital and an ambulatory surgical treatment center from
25 forming a joint venture or developing a collaborative agreement
26 to own or operate a postsurgical recovery care center.

27 (a-10) There shall be no more than a total of 8 children's
28 respite care center alternative health care models in the
29 demonstration program, which shall be located as follows:

30 (1) One in the City of Chicago.

31 (2) One in Cook County outside the City of Chicago.

32 (3) A total of 2 in the area comprised of DuPage, Kane,
33 Lake, McHenry, and Will counties.

34 (4) A total of 2 in municipalities with a population of
35 50,000 or more and not located in the areas described in
36 paragraphs (1), (2), or (3).

1 (5) A total of 2 in rural areas, as defined by the
2 ~~Health Facilities Planning~~ Board.

3 No more than one children's respite care model owned and
4 operated by a licensed skilled pediatric facility shall be
5 located in each of the areas designated in this subsection
6 (a-10).

7 (a-15) There shall be an authorized community-based
8 residential rehabilitation center alternative health care
9 model in the demonstration program. The community-based
10 residential rehabilitation center shall be located in the area
11 of Illinois south of Interstate Highway 70.

12 (a-20) There shall be an authorized Alzheimer's disease
13 management center alternative health care model in the
14 demonstration program. The Alzheimer's disease management
15 center shall be located in Will County, owned by a
16 not-for-profit entity, and endorsed by a resolution approved by
17 the county board before the effective date of this amendatory
18 Act of the 91st General Assembly.

19 (b) ~~(Blank) Alternative health care models, other than a~~
20 ~~model authorized under subsection (a-20), shall obtain a~~
21 ~~certificate of need from the Illinois Health Facilities~~
22 ~~Planning Board under the Illinois Health Facilities Planning~~
23 ~~Act before receiving a license by the Department. If, after~~
24 ~~obtaining its initial certificate of need, an alternative~~
25 ~~health care delivery model that is a community based~~
26 ~~residential rehabilitation center seeks to increase the bed~~
27 ~~capacity of that center, it must obtain a certificate of need~~
28 ~~from the Illinois Health Facilities Planning Board before~~
29 ~~increasing the bed capacity. Alternative health care models in~~
30 ~~medically underserved areas shall receive priority in~~
31 ~~obtaining a certificate of need.~~

32 (c) An alternative health care model license shall be
33 issued for a period of one year and shall be annually renewed
34 if the facility or program is in substantial compliance with
35 the Department's rules adopted under this Act. A licensed
36 alternative health care model that continues to be in

1 substantial compliance after the conclusion of the
2 demonstration program shall be eligible for annual renewals
3 unless and until a different licensure program for that type of
4 health care model is established by legislation. The Department
5 may issue a provisional license to any alternative health care
6 model that does not substantially comply with the provisions of
7 this Act and the rules adopted under this Act if (i) the
8 Department finds that the alternative health care model has
9 undertaken changes and corrections which upon completion will
10 render the alternative health care model in substantial
11 compliance with this Act and rules and (ii) the health and
12 safety of the patients of the alternative health care model
13 will be protected during the period for which the provisional
14 license is issued. The Department shall advise the licensee of
15 the conditions under which the provisional license is issued,
16 including the manner in which the alternative health care model
17 fails to comply with the provisions of this Act and rules, and
18 the time within which the changes and corrections necessary for
19 the alternative health care model to substantially comply with
20 this Act and rules shall be completed.

21 (d) Alternative health care models shall seek
22 certification under Titles XVIII and XIX of the federal Social
23 Security Act. In addition, alternative health care models shall
24 provide charitable care consistent with that provided by
25 comparable health care providers in the geographic area.

26 (d-5) The Illinois Department of Public Aid, in cooperation
27 with the Illinois Department of Public Health, shall develop
28 and implement a reimbursement methodology for all facilities
29 participating in the demonstration program. The Illinois
30 Department of Public Aid shall keep a record of services
31 provided under the demonstration program to recipients of
32 medical assistance under the Illinois Public Aid Code and shall
33 submit an annual report of that information to the Illinois
34 Department of Public Health.

35 (e) Alternative health care models shall, to the extent
36 possible, link and integrate their services with nearby health

1 care facilities.

2 (f) Each alternative health care model shall implement a
3 quality assurance program with measurable benefits and at
4 reasonable cost.

5 (Source: P.A. 91-65, eff. 7-9-99; 91-838, eff. 6-16-00.)

6 (210 ILCS 3/36.5 rep.)

7 Section 40. The Alternative Health Care Delivery Act is
8 amended by repealing Section 36.5.

9 Section 45. The Assisted Living and Shared Housing Act is
10 amended by changing Sections 10, 145, and 155 as follows:

11 (210 ILCS 9/10)

12 Sec. 10. Definitions. For purposes of this Act:

13 "Activities of daily living" means eating, dressing,
14 bathing, toileting, transferring, or personal hygiene.

15 "Advisory Board" means the Assisted Living and Shared
16 Housing Advisory Board.

17 "Assisted living establishment" or "establishment" means a
18 home, building, residence, or any other place where sleeping
19 accommodations are provided for at least 3 unrelated adults, at
20 least 80% of whom are 55 years of age or older and where the
21 following are provided consistent with the purposes of this
22 Act:

23 (1) services consistent with a social model that is
24 based on the premise that the resident's unit in assisted
25 living and shared housing is his or her own home;

26 (2) community-based residential care for persons who
27 need assistance with activities of daily living, including
28 personal, supportive, and intermittent health-related
29 services available 24 hours per day, if needed, to meet the
30 scheduled and unscheduled needs of a resident;

31 (3) mandatory services, whether provided directly by
32 the establishment or by another entity arranged for by the
33 establishment, with the consent of the resident or

1 resident's representative; and

2 (4) a physical environment that is a homelike setting
3 that includes the following and such other elements as
4 established by the Department in conjunction with the
5 Assisted Living and Shared Housing Advisory Board:
6 individual living units each of which shall accommodate
7 small kitchen appliances and contain private bathing,
8 washing, and toilet facilities, or private washing and
9 toilet facilities with a common bathing room readily
10 accessible to each resident. Units shall be maintained for
11 single occupancy except in cases in which 2 residents
12 choose to share a unit. Sufficient common space shall exist
13 to permit individual and group activities.

14 "Assisted living establishment" or "establishment" does
15 not mean any of the following:

16 (1) A home, institution, or similar place operated by
17 the federal government or the State of Illinois.

18 (2) A long term care facility licensed under the
19 Nursing Home Care Act. However, a long term care facility
20 may convert distinct parts of the facility to assisted
21 living. ~~If the long term care facility elects to do so, the~~
22 ~~facility shall retain the Certificate of Need for its~~
23 ~~nursing and sheltered care beds that were converted.~~

24 (3) A hospital, sanitarium, or other institution, the
25 principal activity or business of which is the diagnosis,
26 care, and treatment of human illness and that is required
27 to be licensed under the Hospital Licensing Act.

28 (4) A facility for child care as defined in the Child
29 Care Act of 1969.

30 (5) A community living facility as defined in the
31 Community Living Facilities Licensing Act.

32 (6) A nursing home or sanitarium operated solely by and
33 for persons who rely exclusively upon treatment by
34 spiritual means through prayer in accordance with the creed
35 or tenants of a well-recognized church or religious
36 denomination.

1 (7) A facility licensed by the Department of Human
2 Services as a community-integrated living arrangement as
3 defined in the Community-Integrated Living Arrangements
4 Licensure and Certification Act.

5 (8) A supportive residence licensed under the
6 Supportive Residences Licensing Act.

7 (9) A life care facility as defined in the Life Care
8 Facilities Act; a life care facility may apply under this
9 Act to convert sections of the community to assisted
10 living.

11 (10) A free-standing hospice facility licensed under
12 the Hospice Program Licensing Act.

13 (11) A shared housing establishment.

14 (12) A supportive living facility as described in
15 Section 5-5.01a of the Illinois Public Aid Code.

16 "Department" means the Department of Public Health.

17 "Director" means the Director of Public Health.

18 "Emergency situation" means imminent danger of death or
19 serious physical harm to a resident of an establishment.

20 "License" means any of the following types of licenses
21 issued to an applicant or licensee by the Department:

22 (1) "Probationary license" means a license issued to an
23 applicant or licensee that has not held a license under
24 this Act prior to its application or pursuant to a license
25 transfer in accordance with Section 50 of this Act.

26 (2) "Regular license" means a license issued by the
27 Department to an applicant or licensee that is in
28 substantial compliance with this Act and any rules
29 promulgated under this Act.

30 "Licensee" means a person, agency, association,
31 corporation, partnership, or organization that has been issued
32 a license to operate an assisted living or shared housing
33 establishment.

34 "Licensed health care professional" means a registered
35 professional nurse, an advanced practice nurse, a physician
36 assistant, and a licensed practical nurse.

1 "Mandatory services" include the following:

2 (1) 3 meals per day available to the residents prepared
3 by the establishment or an outside contractor;

4 (2) housekeeping services including, but not limited
5 to, vacuuming, dusting, and cleaning the resident's unit;

6 (3) personal laundry and linen services available to
7 the residents provided or arranged for by the
8 establishment;

9 (4) security provided 24 hours each day including, but
10 not limited to, locked entrances or building or contract
11 security personnel;

12 (5) an emergency communication response system, which
13 is a procedure in place 24 hours each day by which a
14 resident can notify building management, an emergency
15 response vendor, or others able to respond to his or her
16 need for assistance; and

17 (6) assistance with activities of daily living as
18 required by each resident.

19 "Negotiated risk" is the process by which a resident, or
20 his or her representative, may formally negotiate with
21 providers what risks each are willing and unwilling to assume
22 in service provision and the resident's living environment. The
23 provider assures that the resident and the resident's
24 representative, if any, are informed of the risks of these
25 decisions and of the potential consequences of assuming these
26 risks.

27 "Owner" means the individual, partnership, corporation,
28 association, or other person who owns an assisted living or
29 shared housing establishment. In the event an assisted living
30 or shared housing establishment is operated by a person who
31 leases or manages the physical plant, which is owned by another
32 person, "owner" means the person who operates the assisted
33 living or shared housing establishment, except that if the
34 person who owns the physical plant is an affiliate of the
35 person who operates the assisted living or shared housing
36 establishment and has significant control over the day to day

1 operations of the assisted living or shared housing
2 establishment, the person who owns the physical plant shall
3 incur jointly and severally with the owner all liabilities
4 imposed on an owner under this Act.

5 "Physician" means a person licensed under the Medical
6 Practice Act of 1987 to practice medicine in all of its
7 branches.

8 "Resident" means a person residing in an assisted living or
9 shared housing establishment.

10 "Resident's representative" means a person, other than the
11 owner, agent, or employee of an establishment or of the health
12 care provider unless related to the resident, designated in
13 writing by a resident to be his or her representative. This
14 designation may be accomplished through the Illinois Power of
15 Attorney Act, pursuant to the guardianship process under the
16 Probate Act of 1975, or pursuant to an executed designation of
17 representative form specified by the Department.

18 "Self" means the individual or the individual's designated
19 representative.

20 "Shared housing establishment" or "establishment" means a
21 publicly or privately operated free-standing residence for 12
22 or fewer persons, at least 80% of whom are 55 years of age or
23 older and who are unrelated to the owners and one manager of
24 the residence, where the following are provided:

25 (1) services consistent with a social model that is
26 based on the premise that the resident's unit is his or her
27 own home;

28 (2) community-based residential care for persons who
29 need assistance with activities of daily living, including
30 housing and personal, supportive, and intermittent
31 health-related services available 24 hours per day, if
32 needed, to meet the scheduled and unscheduled needs of a
33 resident; and

34 (3) mandatory services, whether provided directly by
35 the establishment or by another entity arranged for by the
36 establishment, with the consent of the resident or the

1 resident's representative.

2 "Shared housing establishment" or "establishment" does not
3 mean any of the following:

4 (1) A home, institution, or similar place operated by
5 the federal government or the State of Illinois.

6 (2) A long term care facility licensed under the
7 Nursing Home Care Act. A long term care facility may,
8 however, convert sections of the facility to assisted
9 living. ~~If the long term care facility elects to do so, the~~
10 ~~facility shall retain the Certificate of Need for its~~
11 ~~nursing beds that were converted.~~

12 (3) A hospital, sanitarium, or other institution, the
13 principal activity or business of which is the diagnosis,
14 care, and treatment of human illness and that is required
15 to be licensed under the Hospital Licensing Act.

16 (4) A facility for child care as defined in the Child
17 Care Act of 1969.

18 (5) A community living facility as defined in the
19 Community Living Facilities Licensing Act.

20 (6) A nursing home or sanitarium operated solely by and
21 for persons who rely exclusively upon treatment by
22 spiritual means through prayer in accordance with the creed
23 or tenants of a well-recognized church or religious
24 denomination.

25 (7) A facility licensed by the Department of Human
26 Services as a community-integrated ~~community intergrated~~
27 living arrangement as defined in the Community-Integrated
28 Living Arrangements Licensure and Certification Act.

29 (8) A supportive residence licensed under the
30 Supportive Residences Licensing Act.

31 (9) A life care facility as defined in the Life Care
32 Facilities Act; a life care facility may apply under this
33 Act to convert sections of the community to assisted
34 living.

35 (10) A free-standing hospice facility licensed under
36 the Hospice Program Licensing Act.

1 (11) An assisted living establishment.

2 (12) A supportive living facility as described in
3 Section 5-5.01a of the Illinois Public Aid Code.

4 "Total assistance" means that staff or another individual
5 performs the entire activity of daily living without
6 participation by the resident.

7 (Source: P.A. 91-656, eff. 1-1-01.)

8 (210 ILCS 9/145)

9 Sec. 145. Conversion of facilities. Entities licensed as
10 facilities under the Nursing Home Care Act may elect to convert
11 to a license under this Act. Any facility that chooses to
12 convert, in whole or in part, shall follow the requirements in
13 the Nursing Home Care Act and rules promulgated under that Act
14 regarding voluntary closure and notice to residents. ~~Any~~
15 ~~conversion of existing beds licensed under the Nursing Home~~
16 ~~Care Act to licensure under this Act is exempt from review by~~
17 ~~the Health Facilities Planning Board.~~

18 (Source: P.A. 91-656, eff. 1-1-01.)

19 (210 ILCS 9/155)

20 Sec. 155. Application of Act. An establishment licensed
21 under this Act shall obtain and maintain all other licenses,
22 permits, certificates, and other governmental approvals
23 required of it, ~~except that a licensed assisted living or~~
24 ~~shared housing establishment is exempt from the provisions of~~
25 ~~the Illinois Health Facilities Planning Act.~~ An establishment
26 licensed under this Act shall comply with the requirements of
27 all local, State, federal, and other applicable laws, rules,
28 and ordinances and the National Fire Protection Association's
29 Life Safety Code.

30 (Source: P.A. 91-656, eff. 1-1-01.)

31 Section 50. The Life Care Facilities Act is amended by
32 changing Sections 2 and 7 as follows:

1 (210 ILCS 40/2) (from Ch. 111 1/2, par. 4160-2)

2 Sec. 2. As used in this Act, unless the context otherwise
3 requires:

4 (a) "Department" means the Department of Public Health.

5 (b) "Director" means the Director of the Department.

6 (c) "Life care contract" means a contract to provide to a
7 person for the duration of such person's life or for a term in
8 excess of one year, nursing services, medical services or
9 personal care services, in addition to maintenance services for
10 such person in a facility, conditioned upon the transfer of an
11 entrance fee to the provider of such services in addition to or
12 in lieu of the payment of regular periodic charges for the care
13 and services involved.

14 (d) "Provider" means a person who provides services
15 pursuant to a life care contract.

16 (e) "Resident" means a person who enters into a life care
17 contract with a provider, or who is designated in a life care
18 contract to be a person provided with maintenance and nursing,
19 medical or personal care services.

20 (f) "Facility" means a place or places in which a provider
21 undertakes to provide a resident with nursing services, medical
22 services or personal care services, in addition to maintenance
23 services for a term in excess of one year or for life pursuant
24 to a life care contract. The term also means a place or places
25 in which a provider undertakes to provide such services to a
26 non-resident.

27 (g) "Living unit" means an apartment, room or other area
28 within a facility set aside for the exclusive use of one or
29 more identified residents.

30 (h) "Entrance fee" means an initial or deferred transfer to
31 a provider of a sum of money or property, made or promised to
32 be made by a person entering into a life care contract, which
33 assures a resident of services pursuant to a life care
34 contract.

35 (i) "Permit" means a written authorization to enter into
36 life care contracts issued by the Department to a provider.

1 (j) "Medical services" means those services pertaining to
2 medical or dental care that are performed in behalf of patients
3 at the direction of a physician licensed under the Medical
4 Practice Act of 1987 or a dentist licensed under the Illinois
5 Dental Practice Act by such physicians or dentists, or by a
6 registered or licensed practical nurse as defined in the
7 Nursing and Advanced Practice Nursing Act or by other
8 professional and technical personnel.

9 (k) "Nursing services" means those services pertaining to
10 the curative, restorative and preventive aspects of nursing
11 care that are performed at the direction of a physician
12 licensed under the Medical Practice Act of 1987 by or under the
13 supervision of a registered or licensed practical nurse as
14 defined in the Nursing and Advanced Practice Nursing Act.

15 (l) "Personal care services" means assistance with meals,
16 dressing, movement, bathing or other personal needs or
17 maintenance, or general supervision and oversight of the
18 physical and mental well-being of an individual, who is
19 incapable of maintaining a private, independent residence or
20 who is incapable of managing his person whether or not a
21 guardian has been appointed for such individual.

22 (m) "Maintenance services" means food, shelter and laundry
23 services.

24 (n) (Blank) ~~"Certificates of Need" means those permits~~
25 ~~issued pursuant to the Illinois Health Facilities Planning Act~~
26 ~~as now or hereafter amended.~~

27 (o) "Non-resident" means a person admitted to a facility
28 who has not entered into a life care contract.

29 (Source: P.A. 90-742, eff. 8-13-98.)

30 (210 ILCS 40/7) (from Ch. 111 1/2, par. 4160-7)

31 Sec. 7. As a condition for the issuance of a permit
32 pursuant to this Act, the provider shall establish and maintain
33 on a current basis, a letter of credit or an escrow account
34 with a bank, trust company, or other financial institution
35 located in the State of Illinois. The letter of credit shall be

1 in an amount and form acceptable to the Department, but in no
2 event shall the amount exceed that applicable to the
3 corresponding escrow agreement alternative, as described
4 below. The terms of the escrow agreement shall meet the
5 following provisions:

6 (a) Requirements for new facilities.

7 (1) If the entrance fee applies to a living unit which has
8 not previously been occupied by any resident, all entrance fee
9 payments representing either all or any smaller portion of the
10 total entrance fee shall be paid to the escrow agent by the
11 resident.

12 (2) When the provider has sold at least 1/2 of its living
13 units, obtained a mortgage commitment, if needed, and obtained
14 all necessary zoning permits ~~and Certificates of Need, if~~
15 ~~required~~, the escrow agent may release a sum representing 1/5
16 of the resident's total entrance fee to the provider. Upon
17 completion of the foundation of the living unit an additional
18 1/5 of the resident's total entrance fee may be released to the
19 provider. When the living unit is under roof a further and
20 additional 1/5 of the resident's total entrance fee may be
21 released to the provider. All remaining monies, if any, shall
22 remain in escrow until the resident's living unit is
23 substantially completed and ready for occupancy by the
24 resident. When the living unit is ready for occupancy the
25 escrow agent may release the remaining escrow amount to the
26 provider and further entrance fee payments, if any, may be paid
27 by the resident to the provider directly. All monies released
28 from escrow shall be used for the facility and for no other
29 purpose.

30 (b) General requirements for all facilities, including new
31 and existing facilities.

32 (1) At the time of resident occupancy and at all times
33 thereafter, the escrow amount shall be in an amount which
34 equals or exceeds the aggregate principal and interest payments
35 due during the next 6 months on account of any first mortgage
36 or other long-term financing of the facility. Existing

1 facilities shall have 2 years from the date of this Act
2 becoming law to comply with this subsection. Upon application
3 from a facility showing good cause, the Director may extend
4 compliance with this subsection one additional year.

5 (2) Notwithstanding paragraph (1) of this subsection, the
6 escrow monies required under paragraph (1) of this subsection
7 may be released to the provider upon approval by the Director.
8 The Director may attach such conditions on the release of
9 monies as he deems fit including, but not limited to, the
10 performance of an audit which satisfies the Director that the
11 facility is solvent, a plan from the facility to bring the
12 facility back in compliance with paragraph (1) of this
13 subsection, and a repayment schedule.

14 (3) The principal of the escrow account may be invested
15 with the earnings thereon payable to the provider as it
16 accrues.

17 (4) If the facility ceases to operate all monies in the
18 escrow account except the amount representing principal and
19 interest shall be repaid by the escrow agent to the resident.

20 (5) Balloon payments due at conclusion of the mortgage
21 shall not be subject to the escrow requirements of paragraph
22 (1) this subsection.

23 (Source: P.A. 85-1349.)

24 Section 55. The Nursing Home Care Act is amended by
25 changing Sections 3-102.2 and 3-103 as follows:

26 (210 ILCS 45/3-102.2)

27 Sec. 3-102.2. Supported congregate living arrangement
28 demonstration. The Illinois Department may grant no more than 3
29 waivers from the requirements of this Act for facilities
30 participating in the supported congregate living arrangement
31 demonstration. A joint waiver request must be made by an
32 applicant and the Department on Aging. If the Department on
33 Aging does not act upon an application within 60 days, the
34 applicant may submit a written waiver request on its own

1 behalf. The waiver request must include a specific program plan
2 describing the types of residents to be served and the services
3 that will be provided in the facility. The Department shall
4 conduct an on-site review at each facility annually or as often
5 as necessary to ascertain compliance with the program plan. The
6 Department may revoke the waiver if it determines that the
7 facility is not in compliance with the program plan. Nothing in
8 this Section prohibits the Department from conducting
9 complaint investigations.

10 ~~A facility granted a waiver under this Section is not~~
11 ~~subject to the Illinois Health Facilities Planning Act, unless~~
12 ~~it subsequently applies for a certificate of need to convert to~~
13 ~~a nursing facility.~~ A facility applying for conversion shall
14 meet the licensure ~~and certificate of need~~ requirements in
15 effect as of the date of application, and this provision may
16 not be waived.

17 (Source: P.A. 89-530, eff. 7-19-96.)

18 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

19 Sec. 3-103. The procedure for obtaining a valid license
20 shall be as follows:

21 (1) Application to operate a facility shall be made to the
22 Department on forms furnished by the Department.

23 (2) All license applications shall be accompanied with an
24 application fee. The fee for an annual license shall be based
25 on the licensed capacity of the facility and shall be
26 determined as follows: 0-49 licensed beds, a flat fee of \$500;
27 50-99 licensed beds, a flat fee of \$750; and for any facility
28 with 100 or more licensed beds, a fee of \$1,000 plus \$10 per
29 licensed bed. The fee for a 2-year license shall be double the
30 fee for the annual license set forth in the preceding sentence.
31 The first \$600,000 of such fees collected each fiscal year
32 shall be deposited with the State Treasurer into the Long Term
33 Care Monitor/Receiver Fund, which has been created as a special
34 fund in the State treasury. Any such fees in excess of \$600,000
35 collected in a fiscal year shall be deposited into the General

1 Revenue Fund. This special fund is to be used by the Department
2 for expenses related to the appointment of monitors and
3 receivers as contained in Sections 3-501 through 3-517. At the
4 end of each fiscal year, any funds in excess of \$1,000,000 held
5 in the Long Term Care Monitor/Receiver Fund shall be deposited
6 in the State's General Revenue Fund. The application shall be
7 under oath and the submission of false or misleading
8 information shall be a Class A misdemeanor. The application
9 shall contain the following information:

10 (a) The name and address of the applicant if an
11 individual, and if a firm, partnership, or association, of
12 every member thereof, and in the case of a corporation, the
13 name and address thereof and of its officers and its
14 registered agent, and in the case of a unit of local
15 government, the name and address of its chief executive
16 officer;

17 (b) The name and location of the facility for which a
18 license is sought;

19 (c) The name of the person or persons under whose
20 management or supervision the facility will be conducted;

21 (d) The number and type of residents for which
22 maintenance, personal care, or nursing is to be provided;
23 and

24 (e) Such information relating to the number,
25 experience, and training of the employees of the facility,
26 any management agreements for the operation of the
27 facility, and of the moral character of the applicant and
28 employees as the Department may deem necessary.

29 (3) Each initial application shall be accompanied by a
30 financial statement setting forth the financial condition of
31 the applicant and by a statement from the unit of local
32 government having zoning jurisdiction over the facility's
33 location stating that the location of the facility is not in
34 violation of a zoning ordinance. ~~An initial application for a~~
35 ~~new facility shall be accompanied by a permit as required by~~
36 ~~the "Illinois Health Facilities Planning Act".~~ After the

1 application is approved, the applicant shall advise the
2 Department every 6 months of any changes in the information
3 originally provided in the application.

4 (4) Other information necessary to determine the identity
5 and qualifications of an applicant to operate a facility in
6 accordance with this Act shall be included in the application
7 as required by the Department in regulations.

8 (Source: P.A. 93-32, eff. 7-1-03.)

9 Section 60. The Emergency Medical Services (EMS) Systems
10 Act is amended by changing Section 32.5 as follows:

11 (210 ILCS 50/32.5)

12 Sec. 32.5. Freestanding Emergency Center.

13 (a) The Department shall issue an annual Freestanding
14 Emergency Center (FEC) license to any facility that:

15 (1) is located: (i) (A) in a municipality with a
16 population of 75,000 or fewer inhabitants; (B) within 15
17 miles of the hospital that owns or controls the FEC; and
18 (C) within 10 miles of the Resource Hospital affiliated
19 with the FEC as part of the EMS System; or (ii) (A) in a
20 municipality that has a hospital that has been providing
21 emergency services but is expected to close by the end of
22 1997 and (B) in a county with a population of more than
23 350,000 but less than 525,000 inhabitants;

24 (2) is wholly owned or controlled by an Associate or
25 Resource Hospital, but is not a part of the hospital's
26 physical plant;

27 (3) meets the standards for licensed FECs, adopted by
28 rule of the Department, including, but not limited to:

29 (A) facility design, specification, operation, and
30 maintenance standards;

31 (B) equipment standards; and

32 (C) the number and qualifications of emergency
33 medical personnel and other staff, which must include
34 at least one board certified emergency physician

1 present at the FEC 24 hours per day.

2 (4) limits its participation in the EMS System strictly
3 to receiving a limited number of BLS runs by emergency
4 medical vehicles according to protocols developed by the
5 Resource Hospital within the FEC's designated EMS System
6 and approved by the Project Medical Director and the
7 Department;

8 (5) provides comprehensive emergency treatment
9 services, as defined in the rules adopted by the Department
10 pursuant to the Hospital Licensing Act, 24 hours per day,
11 on an outpatient basis;

12 (6) provides an ambulance and maintains on site
13 ambulance services staffed with paramedics 24 hours per
14 day;

15 (7) maintains helicopter landing capabilities approved
16 by appropriate State and federal authorities;

17 (8) complies with all State and federal patient rights
18 provisions, including, but not limited to, the Emergency
19 Medical Treatment Act and the federal Emergency Medical
20 Treatment and Active Labor Act;

21 (9) maintains a communications system that is fully
22 integrated with its Resource Hospital within the FEC's
23 designated EMS System;

24 (10) reports to the Department any patient transfers
25 from the FEC to a hospital within 48 hours of the transfer
26 plus any other data determined to be relevant by the
27 Department;

28 (11) submits to the Department, on a quarterly basis,
29 the FEC's morbidity and mortality rates for patients
30 treated at the FEC and other data determined to be relevant
31 by the Department;

32 (12) does not describe itself or hold itself out to the
33 general public as a full service hospital or hospital
34 emergency department in its advertising or marketing
35 activities;

36 (13) complies with any other rules adopted by the

1 Department under this Act that relate to FECs;

2 (14) passes the Department's site inspection for
3 compliance with the FEC requirements of this Act;

4 (15) (blank) ~~submits a copy of a certificate of need or~~
5 ~~other permit issued by the Illinois Health Facilities~~
6 ~~Planning Board indicating that the facility that will house~~
7 ~~the proposed FEC complies with State health planning laws;~~
8 ~~provided, however, that the Illinois Health Facilities~~
9 ~~Planning Board shall waive this certificate of need or~~
10 ~~permit requirement for any proposed FEC that, as of the~~
11 ~~effective date of this amendatory Act of 1996, meets the~~
12 ~~criteria for providing comprehensive emergency treatment~~
13 ~~services, as defined by the rules promulgated under the~~
14 ~~Hospital Licensing Act, but is not a licensed hospital;~~

15 (16) submits an application for designation as an FEC
16 in a manner and form prescribed by the Department by rule;

17 (17) pays the annual license fee as determined by the
18 Department by rule; and

19 (18) participated in the demonstration program.

20 (b) The Department shall:

21 (1) annually inspect facilities of initial FEC
22 applicants and licensed FECs, and issue annual licenses to
23 or annually relicense FECs that satisfy the Department's
24 licensure requirements as set forth in subsection (a);

25 (2) suspend, revoke, refuse to issue, or refuse to
26 renew the license of any FEC, after notice and an
27 opportunity for a hearing, when the Department finds that
28 the FEC has failed to comply with the standards and
29 requirements of the Act or rules adopted by the Department
30 under the Act;

31 (3) issue an Emergency Suspension Order for any FEC
32 when the Director or his or her designee has determined
33 that the continued operation of the FEC poses an immediate
34 and serious danger to the public health, safety, and
35 welfare. An opportunity for a hearing shall be promptly
36 initiated after an Emergency Suspension Order has been

1 issued; and

2 (4) adopt rules as needed to implement this Section.

3 (Source: P.A. 93-372, eff. 1-1-04.)

4 Section 65. The Hospital Licensing Act is amended by
5 changing Sections 4.5 and 10.8 as follows:

6 (210 ILCS 85/4.5)

7 Sec. 4.5. Hospital with multiple locations; single
8 license.

9 (a) A hospital located in a county with fewer than
10 3,000,000 inhabitants may apply to the Department for approval
11 to conduct its operations from more than one location within
12 the county under a single license.

13 (b) The facilities or buildings at those locations must be
14 owned or operated together by a single corporation or other
15 legal entity serving as the licensee and must share:

16 (1) a single board of directors with responsibility for
17 governance, including financial oversight and the
18 authority to designate or remove the chief executive
19 officer;

20 (2) a single medical staff accountable to the board of
21 directors and governed by a single set of medical staff
22 bylaws, rules, and regulations with responsibility for the
23 quality of the medical services; and

24 (3) a single chief executive officer, accountable to
25 the board of directors, with management responsibility.

26 (c) Each hospital building or facility that is located on a
27 site geographically separate from the campus or premises of
28 another hospital building or facility operated by the licensee
29 must, at a minimum, individually comply with the Department's
30 hospital licensing requirements for emergency services.

31 (d) The hospital shall submit to the Department a
32 comprehensive plan in relation to the waiver or waivers
33 requested describing the services and operations of each
34 facility or building and how common services or operations will

1 be coordinated between the various locations. With the
2 exception of items required by subsection (c), the Department
3 is authorized to waive compliance with the hospital licensing
4 requirements for specific buildings or facilities, provided
5 that the hospital has documented which other building or
6 facility under its single license provides that service or
7 operation, and that doing so would not endanger the public's
8 health, safety, or welfare. ~~Nothing in this Section relieves a~~
9 ~~hospital from the requirements of the Health Facilities~~
10 ~~Planning Act.~~

11 (Source: P.A. 89-171, eff. 7-19-95.)

12 (210 ILCS 85/10.8)

13 Sec. 10.8. Requirements for employment of physicians.

14 (a) Physician employment by hospitals and hospital
15 affiliates. Employing entities may employ physicians to
16 practice medicine in all of its branches provided that the
17 following requirements are met:

18 (1) The employed physician is a member of the medical
19 staff of either the hospital or hospital affiliate. If a
20 hospital affiliate decides to have a medical staff, its
21 medical staff shall be organized in accordance with written
22 bylaws where the affiliate medical staff is responsible for
23 making recommendations to the governing body of the
24 affiliate regarding all quality assurance activities and
25 safeguarding professional autonomy. The affiliate medical
26 staff bylaws may not be unilaterally changed by the
27 governing body of the affiliate. Nothing in this Section
28 requires hospital affiliates to have a medical staff.

29 (2) Independent physicians, who are not employed by an
30 employing entity, periodically review the quality of the
31 medical services provided by the employed physician to
32 continuously improve patient care.

33 (3) The employing entity and the employed physician
34 sign a statement acknowledging that the employer shall not
35 unreasonably exercise control, direct, or interfere with

1 the employed physician's exercise and execution of his or
2 her professional judgment in a manner that adversely
3 affects the employed physician's ability to provide
4 quality care to patients. This signed statement shall take
5 the form of a provision in the physician's employment
6 contract or a separate signed document from the employing
7 entity to the employed physician. This statement shall
8 state: "As the employer of a physician, (employer's name)
9 shall not unreasonably exercise control, direct, or
10 interfere with the employed physician's exercise and
11 execution of his or her professional judgment in a manner
12 that adversely affects the employed physician's ability to
13 provide quality care to patients."

14 (4) The employing entity shall establish a mutually
15 agreed upon independent review process with criteria under
16 which an employed physician may seek review of the alleged
17 violation of this Section by physicians who are not
18 employed by the employing entity. The affiliate may arrange
19 with the hospital medical staff to conduct these reviews.
20 The independent physicians shall make findings and
21 recommendations to the employing entity and the employed
22 physician within 30 days of the conclusion of the gathering
23 of the relevant information.

24 (b) Definitions. For the purpose of this Section:

25 "Employing entity" means a hospital licensed under the
26 Hospital Licensing Act or a hospital affiliate.

27 "Employed physician" means a physician who receives an IRS
28 W-2 form, or any successor federal income tax form, from an
29 employing entity.

30 "Hospital" means a hospital licensed under the Hospital
31 Licensing Act, except county hospitals as defined in subsection
32 (c) of Section 15-1 of the Public Aid Code.

33 "Hospital affiliate" means a corporation, partnership,
34 joint venture, limited liability company, or similar
35 organization, other than a hospital, that is devoted primarily
36 to the provision, management, or support of health care

1 services and that directly or indirectly controls, is
2 controlled by, or is under common control of the hospital.

3 "Control" means having at least an equal or a majority
4 ownership or membership interest. A hospital affiliate shall be
5 100% owned or controlled by any combination of hospitals, their
6 parent corporations, or physicians licensed to practice
7 medicine in all its branches in Illinois. "Hospital affiliate"
8 does not include a health maintenance organization regulated
9 under the Health Maintenance Organization Act.

10 "Physician" means an individual licensed to practice
11 medicine in all its branches in Illinois.

12 "Professional judgment" means the exercise of a
13 physician's independent clinical judgment in providing
14 medically appropriate diagnoses, care, and treatment to a
15 particular patient at a particular time. Situations in which an
16 employing entity does not interfere with an employed
17 physician's professional judgment include, without limitation,
18 the following:

19 (1) practice restrictions based upon peer review of the
20 physician's clinical practice to assess quality of care and
21 utilization of resources in accordance with applicable
22 bylaws;

23 (2) supervision of physicians by appropriately
24 licensed medical directors, medical school faculty,
25 department chairpersons or directors, or supervising
26 physicians;

27 (3) written statements of ethical or religious
28 directives; and

29 (4) reasonable referral restrictions that do not, in
30 the reasonable professional judgment of the physician,
31 adversely affect the health or welfare of the patient.

32 (c) Private enforcement. An employed physician aggrieved
33 by a violation of this Act may seek to obtain an injunction or
34 reinstatement of employment with the employing entity as the
35 court may deem appropriate. Nothing in this Section limits or
36 abrogates any common law cause of action. Nothing in this

1 Section shall be deemed to alter the law of negligence.

2 (d) Department enforcement. The Department may enforce the
3 provisions of this Section, but nothing in this Section shall
4 require or permit the Department to license, certify, or
5 otherwise investigate the activities of a hospital affiliate
6 not otherwise required to be licensed by the Department.

7 (e) Retaliation prohibited. No employing entity shall
8 retaliate against any employed physician for requesting a
9 hearing or review under this Section. No action may be taken
10 that affects the ability of a physician to practice during this
11 review, except in circumstances where the medical staff bylaws
12 authorize summary suspension.

13 (f) Physician collaboration. No employing entity shall
14 adopt or enforce, either formally or informally, any policy,
15 rule, regulation, or practice inconsistent with the provision
16 of adequate collaboration, including medical direction of
17 licensed advanced practice nurses or supervision of licensed
18 physician assistants and delegation to other personnel under
19 Section 54.5 of the Medical Practice Act of 1987.

20 (g) Physician disciplinary actions. Nothing in this
21 Section shall be construed to limit or prohibit the governing
22 body of an employing entity or its medical staff, if any, from
23 taking disciplinary actions against a physician as permitted by
24 law.

25 (h) Physician review. Nothing in this Section shall be
26 construed to prohibit a hospital or hospital affiliate from
27 making a determination not to pay for a particular health care
28 service or to prohibit a medical group, independent practice
29 association, hospital medical staff, or hospital governing
30 body from enforcing reasonable peer review or utilization
31 review protocols or determining whether the employed physician
32 complied with those protocols.

33 (i) ~~(Blank) Review. Nothing in this Section may be used or~~
34 ~~construed to establish that any activity of a hospital or~~
35 ~~hospital affiliate is subject to review under the Illinois~~
36 ~~Health Facilities Planning Act.~~

1 (j) Rules. The Department shall adopt any rules necessary
2 to implement this Section.

3 (Source: P.A. 92-455, eff. 9-30-01.)

4 (225 ILCS 7/4 rep.)

5 Section 70. The Board and Care Home Registration Act is
6 amended by repealing Section 4.

7 Section 75. The Health Care Worker Self-Referral Act is
8 amended by changing Sections 5, 15, 20, 30, 35, and 40 as
9 follows:

10 (225 ILCS 47/5)

11 Sec. 5. Legislative intent. The General Assembly
12 recognizes that patient referrals by health care workers for
13 health services to an entity in which the referring health care
14 worker has an investment interest may present a potential
15 conflict of interest. The General Assembly finds that these
16 referral practices may limit or completely eliminate
17 competitive alternatives in the health care market. In some
18 instances, these referral practices may expand and improve care
19 or may make services available which were previously
20 unavailable. They may also provide lower cost options to
21 patients or increase competition. Generally, referral
22 practices are positive occurrences. However, self-referrals
23 may result in over utilization of health services, increased
24 overall costs of the health care systems, and may affect the
25 quality of health care.

26 It is the intent of the General Assembly to provide
27 guidance to health care workers regarding acceptable patient
28 referrals, to prohibit patient referrals to entities providing
29 health services in which the referring health care worker has
30 an investment interest, and to protect the citizens of Illinois
31 from unnecessary and costly health care expenditures.

32 Recognizing the need for flexibility to quickly respond to
33 changes in the delivery of health services, to avoid results

1 beyond the limitations on self referral provided under this Act
2 and to provide minimal disruption to the appropriate delivery
3 of health care, the Department of Public Health may adopt rules
4 ~~Health Facilities Planning Board shall be exclusively and~~
5 ~~solely authorized to implement and interpret this Act through~~
6 ~~adopted rules.~~

7 The General Assembly recognizes that changes in delivery of
8 health care has resulted in various methods by which health
9 care workers practice their professions. It is not the intent
10 of the General Assembly to limit appropriate delivery of care,
11 nor force unnecessary changes in the structures created by
12 workers for the health and convenience of their patients.

13 (Source: P.A. 87-1207.)

14 (225 ILCS 47/15)

15 Sec. 15. Definitions. In this Act:

16 (a) "Department" means the Department of Public Health.

17 ~~"Board" means the Health Facilities Planning Board.~~

18 (b) "Entity" means any individual, partnership, firm,
19 corporation, or other business that provides health services
20 but does not include an individual who is a health care worker
21 who provides professional services to an individual.

22 (c) "Group practice" means a group of 2 or more health care
23 workers legally organized as a partnership, professional
24 corporation, not-for-profit corporation, faculty practice plan
25 or a similar association in which:

26 (1) each health care worker who is a member or employee
27 or an independent contractor of the group provides
28 substantially the full range of services that the health
29 care worker routinely provides, including consultation,
30 diagnosis, or treatment, through the use of office space,
31 facilities, equipment, or personnel of the group;

32 (2) the services of the health care workers are
33 provided through the group, and payments received for
34 health services are treated as receipts of the group; and

35 (3) the overhead expenses and the income from the

1 practice are distributed by methods previously determined
2 by the group.

3 (d) "Health care worker" means any individual licensed
4 under the laws of this State to provide health services,
5 including but not limited to: dentists licensed under the
6 Illinois Dental Practice Act; dental hygienists licensed under
7 the Illinois Dental Practice Act; nurses and advanced practice
8 nurses licensed under the Nursing and Advanced Practice Nursing
9 Act; occupational therapists licensed under the Illinois
10 Occupational Therapy Practice Act; optometrists licensed under
11 the Illinois Optometric Practice Act of 1987; pharmacists
12 licensed under the Pharmacy Practice Act of 1987; physical
13 therapists licensed under the Illinois Physical Therapy Act;
14 physicians licensed under the Medical Practice Act of 1987;
15 physician assistants licensed under the Physician Assistant
16 Practice Act of 1987; podiatrists licensed under the Podiatric
17 Medical Practice Act of 1987; clinical psychologists licensed
18 under the Clinical Psychologist Licensing Act; clinical social
19 workers licensed under the Clinical Social Work and Social Work
20 Practice Act; speech-language pathologists and audiologists
21 licensed under the Illinois Speech-Language Pathology and
22 Audiology Practice Act; or hearing instrument dispensers
23 licensed under the Hearing Instrument Consumer Protection Act,
24 or any of their successor Acts.

25 (e) "Health services" means health care procedures and
26 services provided by or through a health care worker.

27 (f) "Immediate family member" means a health care worker's
28 spouse, child, child's spouse, or a parent.

29 (g) "Investment interest" means an equity or debt security
30 issued by an entity, including, without limitation, shares of
31 stock in a corporation, units or other interests in a
32 partnership, bonds, debentures, notes, or other equity
33 interests or debt instruments except that investment interest
34 for purposes of Section 20 does not include interest in a
35 hospital licensed under the laws of the State of Illinois.

36 (h) "Investor" means an individual or entity directly or

1 indirectly owning a legal or beneficial ownership or investment
2 interest, (such as through an immediate family member, trust,
3 or another entity related to the investor).

4 (i) "Office practice" includes the facility or facilities
5 at which a health care worker, on an ongoing basis, provides or
6 supervises the provision of professional health services to
7 individuals.

8 (j) "Referral" means any referral of a patient for health
9 services, including, without limitation:

10 (1) The forwarding of a patient by one health care
11 worker to another health care worker or to an entity
12 outside the health care worker's office practice or group
13 practice that provides health services.

14 (2) The request or establishment by a health care
15 worker of a plan of care outside the health care worker's
16 office practice or group practice that includes the
17 provision of any health services.

18 (Source: P.A. 89-72, eff. 12-31-95; 90-742, eff. 8-13-98.)

19 (225 ILCS 47/20)

20 Sec. 20. Prohibited referrals and claims for payment.

21 (a) A health care worker shall not refer a patient for
22 health services to an entity outside the health care worker's
23 office or group practice in which the health care worker is an
24 investor, unless the health care worker directly provides
25 health services within the entity and will be personally
26 involved with the provision of care to the referred patient.

27 (b) Pursuant to Department Board determination that the
28 following exception is applicable, a health care worker may
29 invest in and refer to an entity, whether or not the health
30 care worker provides direct services within said entity, if
31 there is a demonstrated need in the community for the entity
32 and alternative financing is not available. For purposes of
33 this subsection (b), "demonstrated need" in the community for
34 the entity may exist if (1) there is no facility of reasonable
35 quality that provides medically appropriate service, (2) use of

1 existing facilities is onerous or creates too great a hardship
2 for patients, (3) the entity is formed to own or lease medical
3 equipment which replaces obsolete or otherwise inadequate
4 equipment in or under the control of a hospital located in a
5 federally designated health manpower shortage area, or (4) such
6 other standards as established, by rule, by the Department
7 ~~Board~~. "Community" shall be defined as a metropolitan area for
8 a city, and a county for a rural area. In addition, the
9 following provisions must be met to be exempt under this
10 Section:

11 (1) Individuals who are not in a position to refer
12 patients to an entity are given a bona fide opportunity to
13 also invest in the entity on the same terms as those
14 offered a referring health care worker; and

15 (2) No health care worker who invests shall be required
16 or encouraged to make referrals to the entity or otherwise
17 generate business as a condition of becoming or remaining
18 an investor; and

19 (3) The entity shall market or furnish its services to
20 referring health care worker investors and other investors
21 on equal terms; and

22 (4) The entity shall not loan funds or guarantee any
23 loans for health care workers who are in a position to
24 refer to an entity; and

25 (5) The income on the health care worker's investment
26 shall be tied to the health care worker's equity in the
27 facility rather than to the volume of referrals made; and

28 (6) Any investment contract between the entity and the
29 health care worker shall not include any covenant or
30 non-competition clause that prevents a health care worker
31 from investing in other entities; and

32 (7) When making a referral, a health care worker must
33 disclose his investment interest in an entity to the
34 patient being referred to such entity. If alternative
35 facilities are reasonably available, the health care
36 worker must provide the patient with a list of alternative

1 facilities. The health care worker shall inform the patient
2 that they have the option to use an alternative facility
3 other than one in which the health care worker has an
4 investment interest and the patient will not be treated
5 differently by the health care worker if the patient
6 chooses to use another entity. This shall be applicable to
7 all health care worker investors, including those who
8 provide direct care or services for their patients in
9 entities outside their office practices; and

10 (8) If a third party payor requests information with
11 regard to a health care worker's investment interest, the
12 same shall be disclosed; and

13 (9) The entity shall establish an internal utilization
14 review program to ensure that investing health care workers
15 provided appropriate or necessary utilization; and

16 (10) If a health care worker's financial interest in an
17 entity is incompatible with a referred patient's interest,
18 the health care worker shall make alternative arrangements
19 for the patient's care.

20 The Department Board shall make such a determination for a
21 health care worker within 90 days of a completed written
22 request. Failure to make such a determination within the 90 day
23 time frame shall mean that no alternative is practical based
24 upon the facts set forth in the completed written request.

25 (c) It shall not be a violation of this Act for a health
26 care worker to refer a patient for health services to a
27 publicly traded entity in which he or she has an investment
28 interest provided that:

29 (1) the entity is listed for trading on the New York
30 Stock Exchange or on the American Stock Exchange, or is a
31 national market system security traded under an automated
32 inter-dealer quotation system operated by the National
33 Association of Securities Dealers; and

34 (2) the entity had, at the end of the corporation's
35 most recent fiscal year, total net assets of at least
36 \$30,000,000 related to the furnishing of health services;

1 and

2 (3) any investment interest obtained after the
3 effective date of this Act is traded on the exchanges
4 listed in paragraph 1 of subsection (c) of this Section
5 after the entity became a publicly traded corporation; and

6 (4) the entity markets or furnishes its services to
7 referring health care worker investors and other health
8 care workers on equal terms; and

9 (5) all stock held in such publicly traded companies,
10 including stock held in the predecessor privately held
11 company, shall be of one class without preferential
12 treatment as to status or remuneration; and

13 (6) the entity does not loan funds or guarantee any
14 loans for health care workers who are in a position to be
15 referred to an entity; and

16 (7) the income on the health care worker's investment
17 is tied to the health care worker's equity in the entity
18 rather than to the volume of referrals made; and

19 (8) the investment interest does not exceed 1/2 of 1%
20 of the entity's total equity.

21 (d) Any hospital licensed under the Hospital Licensing Act
22 shall not discriminate against or otherwise penalize a health
23 care worker for compliance with this Act.

24 (e) Any health care worker or other entity shall not enter
25 into an arrangement or scheme seeking to make referrals to
26 another health care worker or entity based upon the condition
27 that the health care worker or entity will make referrals with
28 an intent to evade the prohibitions of this Act by inducing
29 patient referrals which would be prohibited by this Section if
30 the health care worker or entity made the referral directly.

31 (f) If compliance with the need and alternative investor
32 criteria is not practical, the health care worker shall
33 identify to the patient reasonably available alternative
34 facilities. The Department Board shall, by rule, designate when
35 compliance is "not practical".

36 (g) Health care workers may request from the Department

1 ~~Board~~ that it render an advisory opinion that a referral to an
2 existing or proposed entity under specified circumstances does
3 or does not violate the provisions of this Act. The
4 Department's ~~Board's~~ opinion shall be presumptively correct.
5 Failure to render such an advisory opinion within 90 days of a
6 completed written request pursuant to this Section shall create
7 a rebuttable presumption that a referral described in the
8 completed written request is not or will not be a violation of
9 this Act.

10 (h) Notwithstanding any provision of this Act to the
11 contrary, a health care worker may refer a patient, who is a
12 member of a health maintenance organization "HMO" licensed in
13 this State, for health services to an entity, outside the
14 health care worker's office or group practice, in which the
15 health care worker is an investor, provided that any such
16 referral is made pursuant to a contract with the HMO.
17 Furthermore, notwithstanding any provision of this Act to the
18 contrary, a health care worker may refer an enrollee of a
19 "managed care community network", as defined in subsection (b)
20 of Section 5-11 of the Illinois Public Aid Code, for health
21 services to an entity, outside the health care worker's office
22 or group practice, in which the health care worker is an
23 investor, provided that any such referral is made pursuant to a
24 contract with the managed care community network.

25 (Source: P.A. 92-370, eff. 8-15-01.)

26 (225 ILCS 47/30)

27 Sec. 30. Rulemaking. The Department ~~Health Facilities~~
28 ~~Planning Board~~ shall exclusively and solely implement the
29 provisions of this Act pursuant to rules adopted in accordance
30 with the Illinois Administrative Procedure Act concerning, but
31 not limited to:

32 (a) Standards and procedures for the administration of this
33 Act.

34 (b) Procedures and criteria for exceptions from the
35 prohibitions set forth in Section 20.

1 (c) Procedures and criteria for determining practical
2 compliance with the needs and alternative investor criteria in
3 Section 20.

4 (d) Procedures and criteria for determining when a written
5 request for an opinion set forth in Section 20 is complete.

6 (e) Procedures and criteria for advising health care
7 workers of the applicability of this Act to practices pursuant
8 to written requests.

9 Rules adopted under this Act by the Health Facilities
10 Planning Board shall remain in effect until amended or repealed
11 by the Department.

12 (Source: P.A. 87-1207.)

13 (225 ILCS 47/35)

14 Sec. 35. Administrative Procedure Act; application. The
15 Illinois Administrative Procedure Act is hereby expressly
16 adopted and incorporated herein and shall apply to the
17 Department Board as if all of the provisions of such Act were
18 included in this Act; except that in case of a conflict between
19 the Illinois Administrative Procedure Act and this Act the
20 provisions of this Act shall control.

21 (Source: P.A. 87-1207.)

22 (225 ILCS 47/40)

23 Sec. 40. Review under Administrative Review Law. Any person
24 who is adversely affected by a final decision of the Department
25 Board may have such decision judicially reviewed. The
26 provisions of the Administrative Review Law and the rules
27 adopted pursuant thereto shall apply to and govern all
28 proceedings for the judicial review of final administrative
29 decisions of the Department Board. The term "administrative
30 decisions" is as defined in Section 3-101 of the Code of Civil
31 Procedure.

32 (Source: P.A. 87-1207.)

33 Section 80. The Nurse Agency Licensing Act is amended by

1 changing Section 3 as follows:

2 (225 ILCS 510/3) (from Ch. 111, par. 953)

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

4 (a) "Certified nurse aide" means an individual certified as
5 defined in Section 3-206 of the Nursing Home Care Act, as now
6 or hereafter amended.

7 (b) "Department" means the Department of Labor.

8 (c) "Director" means the Director of Labor.

9 (d) "Health care facility" means and includes the following
10 facilities and organizations:

11 (1) an ambulatory surgical treatment center required
12 to be licensed pursuant to the Ambulatory Surgical
13 Treatment Center Act;

14 (2) an institution, place, building, or agency
15 required to be licensed pursuant to the Hospital Licensing
16 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 ~~is defined as in Section 3 of the Illinois Health Facilities~~
30 ~~Planning Act, as now or hereafter amended.~~

31 (e) "Licensee" means any nursing agency which is properly
32 licensed under this Act.

33 (f) "Nurse" means a registered nurse or a licensed
34 practical nurse as defined in the Nursing and Advanced Practice
35 Nursing Act.

1 (g) "Nurse agency" means any individual, firm,
2 corporation, partnership or other legal entity that employs,
3 assigns or refers nurses or certified nurse aides to a health
4 care facility for a fee. The term "nurse agency" includes
5 nurses registries. The term "nurse agency" does not include
6 services provided by home health agencies licensed and operated
7 under the Home Health Agency Licensing Act or a licensed or
8 certified individual who provides his or her own services as a
9 regular employee of a health care facility, nor does it apply
10 to a health care facility's organizing nonsalaried employees to
11 provide services only in that facility.

12 (Source: P.A. 90-742, eff. 8-13-98.)

13 Section 85. The Illinois Public Aid Code is amended by
14 changing Sections 5-5.01a and 5-5.02 as follows:

15 (305 ILCS 5/5-5.01a)

16 Sec. 5-5.01a. Supportive living facilities demonstration
17 project. For the purpose of studying alternative settings for
18 long term care, the Department may establish and provide
19 oversight for a demonstration project to determine the
20 viability of supportive living facilities that seek to promote
21 resident independence, dignity, respect, and well-being in the
22 most cost-effective manner.

23 A supportive living facility is either a free-standing
24 facility or a distinct physical and operational entity within a
25 nursing facility. A supportive living facility integrates
26 housing with health, personal care, and supportive services and
27 is a designated setting that offers residents their own
28 separate, private, and distinct living units.

29 Demonstration sites shall be selected by the Department
30 based upon criteria that may include the need for services in a
31 geographic area, the availability of funding, and the site's
32 ability to meet the standards.

33 The Department may adopt rules to implement this Section.
34 Rules that establish or modify the services, standards, and

1 conditions for participation in the demonstration project
2 shall be adopted by the Department in consultation with the
3 Department on Aging, the Department of Rehabilitation
4 Services, and the Department of Mental Health and Developmental
5 Disabilities (or their successor agencies).

6 Facilities or distinct parts of facilities which are
7 selected as supportive living facilities and are in good
8 standing with the Department's rules are exempt from the
9 provisions of the Nursing Home Care Act ~~and the Illinois Health~~
10 ~~Facilities Planning Act.~~

11 (Source: P.A. 89-499, eff. 6-28-96.)

12 (305 ILCS 5/5-5.02) (from Ch. 23, par. 5-5.02)

13 Sec. 5-5.02. Hospital reimbursements.

14 (a) Reimbursement to Hospitals; July 1, 1992 through
15 September 30, 1992. Notwithstanding any other provisions of
16 this Code or the Illinois Department's Rules promulgated under
17 the Illinois Administrative Procedure Act, reimbursement to
18 hospitals for services provided during the period July 1, 1992
19 through September 30, 1992, shall be as follows:

20 (1) For inpatient hospital services rendered, or if
21 applicable, for inpatient hospital discharges occurring,
22 on or after July 1, 1992 and on or before September 30,
23 1992, the Illinois Department shall reimburse hospitals
24 for inpatient services under the reimbursement
25 methodologies in effect for each hospital, and at the
26 inpatient payment rate calculated for each hospital, as of
27 June 30, 1992. For purposes of this paragraph,
28 "reimbursement methodologies" means all reimbursement
29 methodologies that pertain to the provision of inpatient
30 hospital services, including, but not limited to, any
31 adjustments for disproportionate share, targeted access,
32 critical care access and uncompensated care, as defined by
33 the Illinois Department on June 30, 1992.

34 (2) For the purpose of calculating the inpatient
35 payment rate for each hospital eligible to receive

1 quarterly adjustment payments for targeted access and
2 critical care, as defined by the Illinois Department on
3 June 30, 1992, the adjustment payment for the period July
4 1, 1992 through September 30, 1992, shall be 25% of the
5 annual adjustment payments calculated for each eligible
6 hospital, as of June 30, 1992. The Illinois Department
7 shall determine by rule the adjustment payments for
8 targeted access and critical care beginning October 1,
9 1992.

10 (3) For the purpose of calculating the inpatient
11 payment rate for each hospital eligible to receive
12 quarterly adjustment payments for uncompensated care, as
13 defined by the Illinois Department on June 30, 1992, the
14 adjustment payment for the period August 1, 1992 through
15 September 30, 1992, shall be one-sixth of the total
16 uncompensated care adjustment payments calculated for each
17 eligible hospital for the uncompensated care rate year, as
18 defined by the Illinois Department, ending on July 31,
19 1992. The Illinois Department shall determine by rule the
20 adjustment payments for uncompensated care beginning
21 October 1, 1992.

22 (b) Inpatient payments. For inpatient services provided on
23 or after October 1, 1993, in addition to rates paid for
24 hospital inpatient services pursuant to the Illinois Health
25 Finance Reform Act, as now or hereafter amended, or the
26 Illinois Department's prospective reimbursement methodology,
27 or any other methodology used by the Illinois Department for
28 inpatient services, the Illinois Department shall make
29 adjustment payments, in an amount calculated pursuant to the
30 methodology described in paragraph (c) of this Section, to
31 hospitals that the Illinois Department determines satisfy any
32 one of the following requirements:

33 (1) Hospitals that are described in Section 1923 of the
34 federal Social Security Act, as now or hereafter amended;

35 or

36 (2) Illinois hospitals that have a Medicaid inpatient

1 utilization rate which is at least one-half a standard
2 deviation above the mean Medicaid inpatient utilization
3 rate for all hospitals in Illinois receiving Medicaid
4 payments from the Illinois Department; or

5 (3) Illinois hospitals that on July 1, 1991 had a
6 Medicaid inpatient utilization rate, as defined in
7 paragraph (h) of this Section, that was at least the mean
8 Medicaid inpatient utilization rate for all hospitals in
9 Illinois receiving Medicaid payments from the Illinois
10 Department and which were located in a planning area with
11 one-third or fewer excess beds ~~as determined by the~~
12 ~~Illinois Health Facilities Planning Board~~, and that, as of
13 June 30, 1992, were located in a federally designated
14 Health Manpower Shortage Area; or

15 (4) Illinois hospitals that:

16 (A) have a Medicaid inpatient utilization rate
17 that is at least equal to the mean Medicaid inpatient
18 utilization rate for all hospitals in Illinois
19 receiving Medicaid payments from the Department; and

20 (B) also have a Medicaid obstetrical inpatient
21 utilization rate that is at least one standard
22 deviation above the mean Medicaid obstetrical
23 inpatient utilization rate for all hospitals in
24 Illinois receiving Medicaid payments from the
25 Department for obstetrical services; or

26 (5) Any children's hospital, which means a hospital
27 devoted exclusively to caring for children. A hospital
28 which includes a facility devoted exclusively to caring for
29 children shall be considered a children's hospital to the
30 degree that the hospital's Medicaid care is provided to
31 children if either (i) the facility devoted exclusively to
32 caring for children is separately licensed as a hospital by
33 a municipality prior to September 30, 1998 or (ii) the
34 hospital has been designated by the State as a Level III
35 perinatal care facility, has a Medicaid Inpatient
36 Utilization rate greater than 55% for the rate year 2003

1 disproportionate share determination, and has more than
2 10,000 qualified children days as defined by the Department
3 in rulemaking.

4 (c) Inpatient adjustment payments. The adjustment payments
5 required by paragraph (b) shall be calculated based upon the
6 hospital's Medicaid inpatient utilization rate as follows:

7 (1) hospitals with a Medicaid inpatient utilization
8 rate below the mean shall receive a per day adjustment
9 payment equal to \$25;

10 (2) hospitals with a Medicaid inpatient utilization
11 rate that is equal to or greater than the mean Medicaid
12 inpatient utilization rate but less than one standard
13 deviation above the mean Medicaid inpatient utilization
14 rate shall receive a per day adjustment payment equal to
15 the sum of \$25 plus \$1 for each one percent that the
16 hospital's Medicaid inpatient utilization rate exceeds the
17 mean Medicaid inpatient utilization rate;

18 (3) hospitals with a Medicaid inpatient utilization
19 rate that is equal to or greater than one standard
20 deviation above the mean Medicaid inpatient utilization
21 rate but less than 1.5 standard deviations above the mean
22 Medicaid inpatient utilization rate shall receive a per day
23 adjustment payment equal to the sum of \$40 plus \$7 for each
24 one percent that the hospital's Medicaid inpatient
25 utilization rate exceeds one standard deviation above the
26 mean Medicaid inpatient utilization rate; and

27 (4) hospitals with a Medicaid inpatient utilization
28 rate that is equal to or greater than 1.5 standard
29 deviations above the mean Medicaid inpatient utilization
30 rate shall receive a per day adjustment payment equal to
31 the sum of \$90 plus \$2 for each one percent that the
32 hospital's Medicaid inpatient utilization rate exceeds 1.5
33 standard deviations above the mean Medicaid inpatient
34 utilization rate.

35

36 (d) Supplemental adjustment payments. In addition to the

1 adjustment payments described in paragraph (c), hospitals as
2 defined in clauses (1) through (5) of paragraph (b), excluding
3 county hospitals (as defined in subsection (c) of Section 15-1
4 of this Code) and a hospital organized under the University of
5 Illinois Hospital Act, shall be paid supplemental inpatient
6 adjustment payments of \$60 per day. For purposes of Title XIX
7 of the federal Social Security Act, these supplemental
8 adjustment payments shall not be classified as adjustment
9 payments to disproportionate share hospitals.

10 (e) The inpatient adjustment payments described in
11 paragraphs (c) and (d) shall be increased on October 1, 1993
12 and annually thereafter by a percentage equal to the lesser of
13 (i) the increase in the DRI hospital cost index for the most
14 recent 12 month period for which data are available, or (ii)
15 the percentage increase in the statewide average hospital
16 payment rate over the previous year's statewide average
17 hospital payment rate. The sum of the inpatient adjustment
18 payments under paragraphs (c) and (d) to a hospital, other than
19 a county hospital (as defined in subsection (c) of Section 15-1
20 of this Code) or a hospital organized under the University of
21 Illinois Hospital Act, however, shall not exceed \$275 per day;
22 that limit shall be increased on October 1, 1993 and annually
23 thereafter by a percentage equal to the lesser of (i) the
24 increase in the DRI hospital cost index for the most recent
25 12-month period for which data are available or (ii) the
26 percentage increase in the statewide average hospital payment
27 rate over the previous year's statewide average hospital
28 payment rate.

29 (f) Children's hospital inpatient adjustment payments. For
30 children's hospitals, as defined in clause (5) of paragraph
31 (b), the adjustment payments required pursuant to paragraphs
32 (c) and (d) shall be multiplied by 2.0.

33 (g) County hospital inpatient adjustment payments. For
34 county hospitals, as defined in subsection (c) of Section 15-1
35 of this Code, there shall be an adjustment payment as
36 determined by rules issued by the Illinois Department.

1 (h) For the purposes of this Section the following terms
2 shall be defined as follows:

3 (1) "Medicaid inpatient utilization rate" means a
4 fraction, the numerator of which is the number of a
5 hospital's inpatient days provided in a given 12-month
6 period to patients who, for such days, were eligible for
7 Medicaid under Title XIX of the federal Social Security
8 Act, and the denominator of which is the total number of
9 the hospital's inpatient days in that same period.

10 (2) "Mean Medicaid inpatient utilization rate" means
11 the total number of Medicaid inpatient days provided by all
12 Illinois Medicaid-participating hospitals divided by the
13 total number of inpatient days provided by those same
14 hospitals.

15 (3) "Medicaid obstetrical inpatient utilization rate"
16 means the ratio of Medicaid obstetrical inpatient days to
17 total Medicaid inpatient days for all Illinois hospitals
18 receiving Medicaid payments from the Illinois Department.

19 (i) Inpatient adjustment payment limit. In order to meet
20 the limits of Public Law 102-234 and Public Law 103-66, the
21 Illinois Department shall by rule adjust disproportionate
22 share adjustment payments.

23 (j) University of Illinois Hospital inpatient adjustment
24 payments. For hospitals organized under the University of
25 Illinois Hospital Act, there shall be an adjustment payment as
26 determined by rules adopted by the Illinois Department.

27 (k) The Illinois Department may by rule establish criteria
28 for and develop methodologies for adjustment payments to
29 hospitals participating under this Article.

30 (Source: P.A. 93-40, eff. 6-27-03.)

31 (405 ILCS 25/4.03 rep.) (from Ch. 91 1/2, par. 604.03)

32 Section 90. The Specialized Living Centers Act is amended
33 by repealing Section 4.03.

34 Section 999. Effective date. This Act takes effect upon

1 becoming law.