



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4961

Introduced 01/19/06, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act	
20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
30 ILCS 105/5.663 new	
215 ILCS 5/Art. XLV heading new	
215 ILCS 5/1502 new	
215 ILCS 5/1503 new	
215 ILCS 5/1505 new	
215 ILCS 5/1510 new	
740 ILCS 10/5	from Ch. 38, par. 60-5

Creates the Healthy Illinois Act. Establishes the Healthy Illinois Authority to arrange for the provision of comprehensive, affordable health care coverage to eligible businesses, the self-employed, and eligible individuals on a voluntary basis through the Healthy Illinois Plan. Sets forth powers and duties of the Authority. Creates the Healthy Illinois Authority Fund. Creates the Healthy Illinois Plan to provide health benefits coverage. Requires contributions to the costs of the plan by employers and enrollees. Provides for subsidies and uncompensated care savings payments. Creates the Healthy Illinois Quality Forum and sets forth duties of the Forum. Requires the Authority to create the Health Resource Plan to set forth a comprehensive and coordinated approach to the development of health care resources and facilities in the State. Provides for a voluntary system of cost and resource restraint by health practitioners, hospitals, and insurers. Amends the Illinois Health Facilities Planning Act to include definitions of "limited service provider" and "Health Resource Plan" and to require the Health Facilities Planning Board to take into account the Health Resource Plan when developing health care facility plans. Amends the State Finance Act to create the Healthy Illinois Authority Fund. Amends the Illinois Insurance Code. Sets forth requirements for making health insurance rates. Amends the Illinois Antitrust Act to subject health insurers to the provisions of that Act. Effective immediately.

LRB094 17438 LJB 52733 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Article 1. GENERAL PROVISIONS

5 Section 1-1. Short title. This Act may be cited as the
6 Healthy Illinois Act.

7 Section 1-5. Purpose. Health care costs are rising rapidly
8 and challenging Illinois' capacity to provide accessible,
9 high-quality health care. Small businesses and individuals do
10 not have adequate access to affordable health insurance in this
11 State. Large employers, providers, and insurers lack guidance
12 concerning appropriate health care quality and cost
13 containment. The absence of appropriate statewide data on
14 health care hinders the planning needed to ensure access,
15 quality, and affordability. This legislation creates Healthy
16 Illinois, a 3-part program that will provide access to
17 affordable coverage for small businesses and individuals
18 through the Healthy Illinois Plan, initiate new strategies for
19 health care quality improvement and cost containment through
20 the Healthy Illinois Quality Forum, and gather and disseminate
21 through the Health Resource Plan the information needed to
22 ensure that all Illinoisans have access to quality, affordable
23 health care.

24 Section 1-10. Definitions. As used in this Act:

25 "Eligible business" means a business that employs at least
26 2 but not more than 50 employees, at least two-thirds of whom
27 are employed in the State, including a municipality or other
28 public sector entity that has at least 2 but not more than 50
29 employees. Beginning one year after Healthy Illinois has been
30 providing health insurance benefits, the Authority may, by

1 rule, define "eligible business" to include larger public or
2 private employers.

3 "Eligible employee" means an employee of an eligible
4 business who works at least 20 hours per week for that eligible
5 business. "Eligible employee" does not include an employee who
6 works on a temporary or substitute basis or who does not work
7 at least 26 weeks annually. New employees meet the 26-week
8 requirement if they are expected to work at least 26 weeks in
9 their first year of employment.

10 "Eligible individual" means any Illinois resident,
11 including any dependents thereof.

12 "Healthy Illinois Plan" means the health insurance plan
13 established by the Healthy Illinois Authority that is offered
14 by a private health insurance carrier or carriers, or by the
15 Healthy Illinois Authority itself.

16 "Resident" means any person whose primary home is in
17 Illinois.

18 Article 5. THE HEALTHY ILLINOIS AUTHORITY

19 Section 5-5. Healthy Illinois Authority Established. The
20 Healthy Illinois Authority is established as an agency in the
21 executive branch of State government to arrange for the
22 provision of comprehensive, affordable health care coverage to
23 eligible businesses, including employees and their dependents,
24 the self-employed and their dependents, and eligible
25 individuals on a voluntary basis through the Healthy Illinois
26 Plan. The Authority shall also monitor and improve the quality
27 of health care in this State through administration of the
28 Healthy Illinois Quality Forum. The Authority shall also
29 develop the Health Resource Plan, focused on gathering and
30 disseminating the information and plans needed to ensure the
31 provision of quality, affordable employee health care in
32 Illinois.

33 Section 5-10. Powers and duties of the Authority. Subject

1 to any limitation contained in this Act or in any other law,
2 the Authority shall have and exercise all powers necessary or
3 convenient to effectuate the purposes for which the Authority
4 is organized or to further the activities in which the
5 Authority may lawfully be engaged, including, but not limited
6 to, the establishment of the Healthy Illinois Plan, the
7 administration of the Healthy Illinois Quality Forum, and the
8 development and promulgation of the Health Resource Plan.

9 Section 5-15. The Healthy Illinois Authority Fund. The
10 Healthy Illinois Authority Fund is created as a special fund in
11 the State treasury for the deposit of any funds advanced for
12 initial operating expenses, payments made by employers and
13 individuals, any uncompensated care savings payments made
14 pursuant to Section 10-20 of this Act, and any funds received
15 from any public or private source. The Fund is exempt from the
16 provisions of subsection (c) of Section 5 of the State Finance
17 Act and shall not lapse, but must be carried forward to carry
18 out the purposes of this Act.

19 Article 10. HEALTHY ILLINOIS PLAN

20 Section 10-5. Healthy Illinois Plan. The Authority shall
21 begin to provide health benefits coverage through the Healthy
22 Illinois Plan not later than 12 months after entering into
23 contracts with one or more qualified bidders to administer plan
24 benefits. The Healthy Illinois Plan must comply with all
25 relevant requirements of this Article. The Authority shall
26 select one or more entities to administer the Healthy Illinois
27 Plan through a competitive request for proposal process to
28 identify those that most fully meet qualifications described in
29 this Article and any additional qualifications set by the
30 Authority.

31 Section 10-10. Healthy Illinois Plan administration.

32 (a) The Healthy Illinois Plan shall include a comprehensive

1 package that meets the requirements for mandated coverage for
2 specific health services and specific diseases and for certain
3 providers of health services under the Illinois Insurance Code
4 and any supplemental benefits the Authority wishes to make
5 available.

6 (b) The Authority shall establish the minimum required
7 contribution levels, not to exceed 60%, to be paid by eligible
8 businesses toward the aggregate payment. The Authority may
9 establish a separate minimum contribution level to be paid by
10 eligible businesses toward coverage for dependents of the
11 eligible business's enrolled employees.

12 (c) The Authority shall require participating employers to
13 certify that at least 75% of their employees that work 20 hours
14 or more per week are either enrolled in the Healthy Illinois
15 Plan or have other creditable coverage.

16 (d) The Authority shall reduce the required payment amounts
17 for plan enrollees eligible for a subsidy under Section 10-15
18 of this Act in accordance with the enrollee's subsidy amount.
19 The Authority shall notify both the plan enrollee and the
20 employer, if applicable, of both the subsidy and the new
21 required payment amount so that the employer, where applicable,
22 can reduce the amount deducted or otherwise set aside for the
23 enrollee's premium share.

24 (e) Participating employers shall make payments on behalf
25 of both the employer and its enrolled employees.

26 Section 10-15. Subsidies. The Authority shall establish
27 sliding-scale subsidies for the purchase of the Healthy
28 Illinois Plan by eligible employees and individuals whose
29 household income is under 300% of the federal poverty level and
30 who are not eligible for Medicaid.

31 Section 10-20. Uncompensated care savings payments. For
32 the purpose of providing the funds necessary to provide
33 subsidies pursuant to Section 10-15 of this Act and support the
34 Healthy Illinois Quality Forum and because the operation of the

1 Healthy Illinois Plan will control health care costs through
2 the reduction of uncompensated care, health insurance carriers
3 and employee benefit excess insurance carriers shall pay to the
4 Authority 4% of annual health insurance premiums and employee
5 benefit excess insurance premiums on policies issued pursuant
6 to the laws of this State that insure residents of this State.

7 Article 15. HEALTH CARE QUALITY

8 Section 15-5. Healthy Illinois Quality Forum. The Healthy
9 Illinois Quality Forum, referred to in this Article as the
10 "Forum", is established within the Authority. The Forum shall
11 be funded, at least in part, through the uncompensated care
12 savings payments made pursuant to Section 10-20 of this Act.
13 Information obtained by the Forum is a public record within the
14 meaning in Section 2 of the Freedom of Information Act. All
15 duties performed by the Forum shall be done in a manner
16 consistent with and not in duplication of the requirements of
17 the Hospital Report Card Act.

18 Section 15-10. Duties. The Forum shall perform the
19 following duties:

20 (1) Gathering and disseminating information on health care
21 quality and patient safety.

22 (2) Research on best practice in Illinois, including, but
23 not limited to, the following:

24 (A) Collecting information from Illinois health care
25 providers, insurers, third party administrators, and
26 others that are currently utilizing practices designed to
27 increase health care quality and patient safety, focusing
28 on those practices where a positive impact has been
29 documented and where the information needed for others to
30 replicate the practice is available. The Forum shall seek
31 to include examples of effective uses of electronic
32 technology for such things as medical records and physical
33 order entry.

1 (B) Dissemination of information on effective
2 practices in Illinois through public reports, conferences,
3 and other appropriate vehicles. The Authority with
4 guidance from the Forum, including its advisory council,
5 shall provide technical assistance to health care
6 providers, insurers, and other entities that plan to
7 implement proven practices that have been demonstrated to
8 have a material positive impact on health care quality and
9 patient safety in Illinois.

10 (3) Evaluation and comparison of health care quality and
11 provider performance, including, but not limited to, the
12 following:

13 (A) The Forum shall identify existing valid and
14 reliable measures of health care quality and provider
15 performance that are already in use in Illinois and
16 nationally.

17 (B) The Forum shall disseminate information on those
18 measures to Illinois health care providers, insurers, and
19 others.

20 (C) By the third year of operation, the Forum shall
21 recommend an initial set of measures that all Illinois
22 providers, insurers, and others, as appropriate, should
23 adopt. If after a reasonable period one or more measures
24 are not adopted, the Authority may adopt rules to better
25 ensure the adoption of those measures. The Forum shall
26 provide guidance on data collection and submission
27 protocols with the minimum possible burden for the
28 providers of data.

29 Article 20. HEALTH RESOURCE PLAN

30 Section 20-5. Duties of the Authority related to the Health
31 Resource Plan.

32 (a) The Authority shall do all of the following:

33 (1) develop and issue the biennial Health Resource
34 Plan, referred to in this Article as the "plan". The first

1 plan shall be issued by May 31, 2006;

2 (2) make an annual report to the public assessing the
3 progress toward meeting goals of the plan and provide any
4 needed updates to the plan; and

5 (3) issue an annual statewide health expenditure
6 budget report that shall serve as the basis for
7 establishing priorities within the plan.

8 (b) The Authority shall provide the reports specified in
9 paragraphs (2) and (3) of subsection (a) of this Section to the
10 General Assembly.

11 Section 20-10. Health Resource Plan. The plan, issued
12 pursuant to Section 20-5 of this Act, must set forth a
13 comprehensive, coordinated approach to the development of
14 health care facilities and resources in the State based on
15 statewide cost, quality, and access goals and strategies to
16 ensure access to affordable health care, maintain a rational
17 system of health care, and promote the development of the
18 health care workforce.

19 Article 25. COST CONTAINMENT

20 Section 25-5. Voluntary restraint. In order to control the
21 rate of growth of costs of health care and health coverage:

22 (1) Each health care practitioner licensed under the
23 Medical Practice Act of 1987 shall make every effort to
24 limit the growth of net revenue of the practitioner's
25 practice to 3% for the practitioner's fiscal year beginning
26 on or after July 1, 2006 and for every fiscal year
27 thereafter.

28 (2) Each hospital licensed under the Hospital
29 Licensing Act shall make every effort to restrain cost
30 increases, as measured as expenses for case mix adjusted
31 discharge, to no more than 3.5% for the hospital fiscal
32 year beginning on or after July 1, 2006 and for every
33 fiscal year thereafter. Each hospital licensed under the

1 Hospital Licensing Act shall make every effort to hold
2 hospital consolidated operating margins to no more than 3%
3 for the hospital's fiscal year beginning on or after July
4 1, 2006 and for every fiscal year thereafter.

5 (3) Each health insurance carrier licensed in this
6 State shall make every effort to limit the pricing of
7 products it sells in this State to the level that supports
8 no more than 3% underwriting gain less federal taxes for
9 the carrier's fiscal year beginning on or after July 1,
10 2006 and for every fiscal year thereafter.

11 (4) By July 1, 2006, the Illinois Hospital Association
12 and the Authority shall agree on a timetable, format, and
13 methodology for the Illinois Hospital Association to
14 report on hospital charges, cost efficiency, and
15 consolidated operating margins. In accordance with the
16 agreement, the Illinois Hospital Association shall submit
17 an annual report to the Authority beginning January 1,
18 2007.

19 ARTICLE 95. AMENDATORY PROVISIONS

20 Section 95-5. The Illinois Health Facilities Planning Act
21 is amended by changing Sections 3 and 12 as follows:

22 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

23 (Section scheduled to be repealed on July 1, 2006)

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

25 "Health care facilities" means and includes the following
26 facilities and organizations:

27 1. An ambulatory surgical treatment center required to
28 be licensed pursuant to the Ambulatory Surgical Treatment
29 Center Act;

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

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

1 ~~3. Skilled and intermediate long term care facilities~~
2 ~~licensed under the Nursing Home Care Act;~~

3 4. Hospitals, nursing homes, ambulatory surgical
4 treatment centers, or kidney disease treatment centers
5 maintained by the State or any department or agency
6 thereof;

7 5. Kidney disease treatment centers, including a
8 free-standing hemodialysis unit required to be licensed
9 under the End Stage Renal Disease Facility Act; and

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

14 7. Limited service providers.

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

18 No facility licensed under the Supportive Residences
19 Licensing Act or the Assisted Living and Shared Housing Act
20 shall be subject to the provisions of this Act.

21 A facility designated as a supportive living facility that
22 is in good standing with the program established under Section
23 5-5.01a of the Illinois Public Aid Code shall not be subject to
24 the provisions of this Act.

25 This Act does not apply to facilities granted waivers under
26 Section 3-102.2 of the Nursing Home Care Act. However, if a
27 demonstration project under that Act applies for a certificate
28 of need to convert to a nursing facility, it shall meet the
29 licensure and certificate of need requirements in effect as of
30 the date of application.

31 This Act does not apply to a dialysis facility that
32 provides only dialysis training, support, and related services
33 to individuals with end stage renal disease who have elected to
34 receive home dialysis. This Act does not apply to a dialysis
35 unit located in a licensed nursing home that offers or provides
36 dialysis-related services to residents with end stage renal

1 disease who have elected to receive home dialysis within the
2 nursing home. The Board, however, may require these dialysis
3 facilities and licensed nursing homes to report statistical
4 information on a quarterly basis to the Board to be used by the
5 Board to conduct analyses on the need for proposed kidney
6 disease treatment centers.

7 This Act shall not apply to the closure of an entity or a
8 portion of an entity licensed under the Nursing Home Care Act
9 that elects to convert, in whole or in part, to an assisted
10 living or shared housing establishment licensed under the
11 Assisted Living and Shared Housing Act.

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

32 "Person" means any one or more natural persons, legal
33 entities, governmental bodies other than federal, or any
34 combination thereof.

35 "Consumer" means any person other than a person (a) whose
36 major occupation currently involves or whose official capacity

1 within the last 12 months has involved the providing,
2 administering or financing of any type of health care facility,
3 (b) who is engaged in health research or the teaching of
4 health, (c) who has a material financial interest in any
5 activity which involves the providing, administering or
6 financing of any type of health care facility, or (d) who is or
7 ever has been a member of the immediate family of the person
8 defined by (a), (b), or (c).

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

10 "Construction or modification" means the establishment,
11 erection, building, alteration, reconstruction, modernization,
12 improvement, extension, discontinuation, change of ownership,
13 of or by a health care facility, or the purchase or acquisition
14 by or through a health care facility of equipment or service
15 for diagnostic or therapeutic purposes or for facility
16 administration or operation, or any capital expenditure made by
17 or on behalf of a health care facility which exceeds the
18 capital expenditure minimum; however, any capital expenditure
19 made by or on behalf of a health care facility for (i) the
20 construction or modification of a facility licensed under the
21 Assisted Living and Shared Housing Act or (ii) a conversion
22 project undertaken in accordance with Section 30 of the Older
23 Adult Services Act shall be excluded from any obligations under
24 this Act.

25 "Establish" means the construction of a health care
26 facility or the replacement of an existing facility on another
27 site.

28 "Major medical equipment" means medical equipment which is
29 used for the provision of medical and other health services and
30 which costs in excess of the capital expenditure minimum,
31 except that such term does not include medical equipment
32 acquired by or on behalf of a clinical laboratory to provide
33 clinical laboratory services if the clinical laboratory is
34 independent of a physician's office and a hospital and it has
35 been determined under Title XVIII of the Social Security Act to
36 meet the requirements of paragraphs (10) and (11) of Section

1 1861(s) of such Act. In determining whether medical equipment
2 has a value in excess of the capital expenditure minimum, the
3 value of studies, surveys, designs, plans, working drawings,
4 specifications, and other activities essential to the
5 acquisition of such equipment shall be included.

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

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

28 "Capital expenditure minimum" means \$6,000,000, which
29 shall be annually adjusted to reflect the increase in
30 construction costs due to inflation, for major medical
31 equipment and for all other capital expenditures; provided,
32 however, that when a capital expenditure is for the
33 construction or modification of a health and fitness center,
34 "capital expenditure minimum" means the capital expenditure
35 minimum for all other capital expenditures in effect on March
36 1, 2000, which shall be annually adjusted to reflect the

1 increase in construction costs due to inflation.

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

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

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

31 "Areawide health planning organization" or "Comprehensive
32 health planning organization" means the health systems agency
33 designated by the Secretary, Department of Health and Human
34 Services or any successor agency.

35 "Local health planning organization" means those local
36 health planning organizations that are designated as such by

1 the areawide health planning organization of the appropriate
2 area.

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

5 "Licensed health care professional" means a person
6 licensed to practice a health profession under pertinent
7 licensing statutes of the State of Illinois.

8 "Director" means the Director of the Illinois Department of
9 Public Health.

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

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

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

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

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

7 "Related person" means any person that: (i) is at least 50%
8 owned, directly or indirectly, by either the health care
9 facility or a person owning, directly or indirectly, at least
10 50% of the health care facility; or (ii) owns, directly or
11 indirectly, at least 50% of the health care facility.

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

15 "Limited service provider" means a health care facility, as
16 defined in this Act, that focuses on a specific condition or
17 procedure, including, but not limited to, specialty hospitals,
18 pain centers, and imaging centers.

19 "Health Resource Plan" means the biennial Health Resource
20 Plan developed under Article 20 of the Healthy Illinois Act.

21 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
22 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; 94-342, eff.
23 7-26-05; revised 10-19-05.)

24 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

25 (Section scheduled to be repealed on July 1, 2006)

26 Sec. 12. Powers and duties of State Board. For purposes of
27 this Act, the State Board shall exercise the following powers
28 and duties:

29 (1) Prescribe rules, regulations, standards, criteria,
30 procedures or reviews which may vary according to the purpose
31 for which a particular review is being conducted or the type of
32 project reviewed and which are required to carry out the
33 provisions and purposes of this Act.

34 (2) Adopt procedures for public notice and hearing on all
35 proposed rules, regulations, standards, criteria, and plans

1 required to carry out the provisions of this Act.

2 (3) Prescribe criteria for recognition for areawide health
3 planning organizations, including, but not limited to,
4 standards for evaluating the scientific bases for judgments on
5 need and procedure for making these determinations.

6 (4) Develop criteria and standards for health care
7 facilities planning, conduct statewide inventories of health
8 care facilities, maintain an updated inventory on the
9 Department's web site reflecting the most recent bed and
10 service changes and updated need determinations when new census
11 data become available or new need formulae are adopted, and
12 develop health care facility plans which shall be utilized in
13 the review of applications for permit under this Act. Such
14 health facility plans shall be coordinated by the Agency with
15 the health care facility plans areawide health planning
16 organizations and with other pertinent State Plans.

17 In developing health care facility plans, the State Board
18 shall consider, but shall not be limited to, the following:

19 (a) The size, composition and growth of the population
20 of the area to be served;

21 (b) The number of existing and planned facilities
22 offering similar programs;

23 (c) The extent of utilization of existing facilities;

24 (d) The availability of facilities which may serve as
25 alternatives or substitutes;

26 (e) The availability of personnel necessary to the
27 operation of the facility;

28 (f) Multi-institutional planning and the establishment
29 of multi-institutional systems where feasible;

30 (g) The financial and economic feasibility of proposed
31 construction or modification; ~~and~~

32 (h) In the case of health care facilities established
33 by a religious body or denomination, the needs of the
34 members of such religious body or denomination may be
35 considered to be public need; ~~and~~

36 (i) The Health Resource Plan adopted by the Healthy

1 Illinois Authority.

2 The health care facility plans which are developed and
3 adopted in accordance with this Section shall form the basis
4 for the plan of the State to deal most effectively with
5 statewide health needs in regard to health care facilities.

6 (5) Coordinate with other state agencies having
7 responsibilities affecting health care facilities, including
8 those of licensure and cost reporting.

9 (6) Solicit, accept, hold and administer on behalf of the
10 State any grants or bequests of money, securities or property
11 for use by the State Board or recognized areawide health
12 planning organizations in the administration of this Act; and
13 enter into contracts consistent with the appropriations for
14 purposes enumerated in this Act.

15 (7) The State Board shall prescribe, in consultation with
16 the recognized areawide health planning organizations,
17 procedures for review, standards, and criteria which shall be
18 utilized to make periodic areawide reviews and determinations
19 of the appropriateness of any existing health services being
20 rendered by health care facilities subject to the Act. The
21 State Board shall consider recommendations of the areawide
22 health planning organization and the Agency in making its
23 determinations.

24 (8) Prescribe, in consultation with the recognized
25 areawide health planning organizations, rules, regulations,
26 standards, and criteria for the conduct of an expeditious
27 review of applications for permits for projects of construction
28 or modification of a health care facility, which projects are
29 non-substantive in nature. Such rules shall not abridge the
30 right of areawide health planning organizations to make
31 recommendations on the classification and approval of
32 projects, nor shall such rules prevent the conduct of a public
33 hearing upon the timely request of an interested party. Such
34 reviews shall not exceed 60 days from the date the application
35 is declared to be complete by the Agency.

36 (9) Prescribe rules, regulations, standards, and criteria

1 pertaining to the granting of permits for construction and
2 modifications which are emergent in nature and must be
3 undertaken immediately to prevent or correct structural
4 deficiencies or hazardous conditions that may harm or injure
5 persons using the facility, as defined in the rules and
6 regulations of the State Board. This procedure is exempt from
7 public hearing requirements of this Act.

8 (10) Prescribe rules, regulations, standards and criteria
9 for the conduct of an expeditious review, not exceeding 60
10 days, of applications for permits for projects to construct or
11 modify health care facilities which are needed for the care and
12 treatment of persons who have acquired immunodeficiency
13 syndrome (AIDS) or related conditions.

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

15 Section 95-10. The State Finance Act is amended by adding
16 Section 5.663 as follows:

17 (30 ILCS 105/5.663 new)

18 Sec. 5.663. The Healthy Illinois Authority Fund.

19 Section 95-15. The Illinois Insurance Code is amended by
20 adding Article XLV as follows:

21 (215 ILCS 5/Art. XLV heading new)

22 ARTICLE XLV. HEALTH INSURANCE RATES

23 (215 ILCS 5/1502 new)

24 Sec. 1502. Purpose. The purpose of this Article is to
25 promote the public welfare by regulating health insurance rates
26 to the end that they shall not be excessive, inadequate or
27 unfairly discriminatory, or erroneously applied and to
28 authorize and regulate cooperative action among companies in
29 rate making and in other matters within the scope of this
30 Article. It is the express intent of the General Assembly
31 pursuant to this Article to permit and encourage competition

1 between companies on a sound financial basis and to establish a
2 mechanism to ensure the provision of adequate insurance at
3 reasonable rates to the citizens of this State. This Article
4 shall be liberally interpreted to effectuate its purpose.

5 (215 ILCS 5/1503 new)

6 Sec. 1503. Scope of Article. This Article applies to
7 health insurance. As used in this Article, "health insurance"
8 means the kinds of insurance described in clause (b) of Class 1
9 and clause (a) of Class 2 of Section 4 of this Code.

10 (215 ILCS 5/1505 new)

11 Sec. 1505. Definitions. As used in this Article:
12 "Director" means the Director of the Division of Insurance
13 of the Department of Financial and Professional Regulation.
14 "Division" means the Division of Insurance of the
15 Department of Financial and Professional Regulation.

16 (215 ILCS 5/1510 new)

17 Sec. 1510. Making of Rates.
18 (a) Rate increases shall not be excessive, inadequate, or
19 unfairly discriminatory, and shall not be more than 6% without
20 adequate justification. A rate in a competitive market is
21 presumed to be not excessive if it has not been increased by
22 more than 6% without adequate justification. A rate in a
23 noncompetitive market is excessive if it is likely to produce a
24 long run profit that is unreasonably high for the insurance
25 provided or if expenses are unreasonably high in relation to
26 the services rendered. Unfair discrimination exists if, after
27 allowing for practical limitations, price differentials fail
28 to reflect equitably the differences in expected losses and
29 expenses.

30 (b) In making the determination of whether there is
31 adequate justification for a rate increase of more than 6%, the
32 Director shall, in accordance with generally accepted and
33 reasonable actuarial techniques, consider the following

1 factors:

2 (1) Past loss experience within and outside this State.

3 (2) Past expenses both allocated and unallocated.

4 (3) The degree of competition among insurers for the
5 risk insured.

6 (4) Investment income reasonably expected by the
7 insurer, consistent with the insurer's investment
8 practices, from investable premiums anticipated in the
9 filing, plus any other expected income from currently
10 invested assets representing the amount expected on
11 unearned premium reserves and loss reserves. The Division
12 may adopt rules utilizing reasonable techniques of
13 actuarial science and economics to specify the manner in
14 which insurers shall calculate investment income
15 attributable to classes of insurance written in this State
16 and the manner in which the investment income shall be used
17 in the calculation of insurance rates.

18 (5) The reasonableness of the judgment reflected in the
19 filing.

20 (6) Dividends, savings, or unabsorbed premium deposits
21 allowed or returned to Illinois policyholders, members, or
22 subscribers.

23 (7) The adequacy of loss reserves.

24 (8) The cost of reinsurance.

25 (9) Trend factors, including trends to actual losses
26 per insured unit for the insurer making the filing.

27 (10) A reasonable margin for profit and contingencies.

28 (11) Other relevant factors that impact upon the
29 frequency or severity of claims or upon expenses.

30 Section 95-20. The Illinois Antitrust Act is amended by
31 changing Section 5 as follows:

32 (740 ILCS 10/5) (from Ch. 38, par. 60-5)

33 Sec. 5. No provisions of this Act shall be construed to
34 make illegal:

1 (1) the activities of any labor organization or of
2 individual members thereof which are directed solely to labor
3 objectives which are legitimate under the laws of either the
4 State of Illinois or the United States;

5 (2) the activities of any agricultural or horticultural
6 cooperative organization, whether incorporated or
7 unincorporated, or of individual members thereof, which are
8 directed solely to objectives of such cooperative
9 organizations which are legitimate under the laws of either the
10 State of Illinois or the United States;

11 (3) the activities of any public utility, as defined in
12 Section 3-105 of the Public Utilities Act to the extent that
13 such activities are subject to a clearly articulated and
14 affirmatively expressed State policy to replace competition
15 with regulation, where the conduct to be exempted is actively
16 supervised by the State itself;

17 (4) The activities of a telecommunications carrier, as
18 defined in Section 13-202 of the Public Utilities Act, to the
19 extent those activities relate to the provision of
20 noncompetitive telecommunications services under the Public
21 Utilities Act and are subject to the jurisdiction of the
22 Illinois Commerce Commission or to the activities of telephone
23 mutual concerns referred to in Section 13-202 of the Public
24 Utilities Act to the extent those activities relate to the
25 provision and maintenance of telephone service to owners and
26 customers;

27 (5) the activities (including, but not limited to, the
28 making of or participating in joint underwriting or joint
29 reinsurance arrangement) of any insurer, insurance agent,
30 insurance broker, independent insurance adjuster or rating
31 organization to the extent that such activities are subject to
32 regulation by the Director of Insurance of this State under, or
33 are permitted or are authorized by, the Insurance Code or any
34 other law of this State, except, however, that this Act shall
35 apply to the activities of any entity that provides health
36 insurance in this State, including a licensed insurance

1 company, a prepaid hospital or medical service plan, a health
2 maintenance organization, or any other entity providing a plan
3 of health insurance or health benefits subject to State
4 insurance regulation insofar as those activities relate to that
5 health insurance;

6 (6) the religious and charitable activities of any
7 not-for-profit corporation, trust or organization established
8 exclusively for religious or charitable purposes, or for both
9 purposes;

10 (7) the activities of any not-for-profit corporation
11 organized to provide telephone service on a mutual or
12 co-operative basis or electrification on a co-operative basis,
13 to the extent such activities relate to the marketing and
14 distribution of telephone or electrical service to owners and
15 customers;

16 (8) the activities engaged in by securities dealers who are
17 (i) licensed by the State of Illinois or (ii) members of the
18 National Association of Securities Dealers or (iii) members of
19 any National Securities Exchange registered with the
20 Securities and Exchange Commission under the Securities
21 Exchange Act of 1934, as amended, in the course of their
22 business of offering, selling, buying and selling, or otherwise
23 trading in or underwriting securities, as agent, broker, or
24 principal, and activities of any National Securities Exchange
25 so registered, including the establishment of commission rates
26 and schedules of charges;

27 (9) the activities of any board of trade designated as a
28 "contract market" by the Secretary of Agriculture of the United
29 States pursuant to Section 5 of the Commodity Exchange Act, as
30 amended;

31 (10) the activities of any motor carrier, rail carrier, or
32 common carrier by pipeline, as defined in the Common Carrier by
33 Pipeline Law of the Public Utilities Act, to the extent that
34 such activities are permitted or authorized by the Act or are
35 subject to regulation by the Illinois Commerce Commission;

36 (11) the activities of any state or national bank to the

1 extent that such activities are regulated or supervised by
2 officers of the state or federal government under the banking
3 laws of this State or the United States;

4 (12) the activities of any state or federal savings and
5 loan association to the extent that such activities are
6 regulated or supervised by officers of the state or federal
7 government under the savings and loan laws of this State or the
8 United States;

9 (13) the activities of any bona fide not-for-profit
10 association, society or board, of attorneys, practitioners of
11 medicine, architects, engineers, land surveyors or real estate
12 brokers licensed and regulated by an agency of the State of
13 Illinois, in recommending schedules of suggested fees, rates or
14 commissions for use solely as guidelines in determining charges
15 for professional and technical services;

16 (14) Conduct involving trade or commerce (other than import
17 trade or import commerce) with foreign nations unless:

18 (a) such conduct has a direct, substantial, and
19 reasonably foreseeable effect:

20 (i) on trade or commerce which is not trade or
21 commerce with foreign nations, or on import trade or
22 import commerce with foreign nations; or

23 (ii) on export trade or export commerce with
24 foreign nations of a person engaged in such trade or
25 commerce in the United States; and

26 (b) such effect gives rise to a claim under the
27 provisions of this Act, other than this subsection (14).

28 (c) If this Act applies to conduct referred to in this
29 subsection (14) only because of the provisions of paragraph
30 (a) (ii), then this Act shall apply to such conduct only for
31 injury to export business in the United States which
32 affects this State; or

33 (15) the activities of a unit of local government or school
34 district and the activities of the employees, agents and
35 officers of a unit of local government or school district.

36 (Source: P.A. 90-185, eff. 7-23-97; 90-561, eff. 12-16-97.)

