

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Sections 3 and 14.1 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Section scheduled to be repealed on April 1, 2007)

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

9 "Health care facilities" means and includes the following
10 facilities and organizations:

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

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

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

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19 ~~licensed under the Nursing Home Care Act;~~

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

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

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

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

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

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

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

24 This Act does not apply to a dialysis facility that
25 provides only dialysis training, support, and related services
26 to individuals with end stage renal disease who have elected to

1 receive home dialysis. This Act does not apply to a dialysis
2 unit located in a licensed nursing home that offers or provides
3 dialysis-related services to residents with end stage renal
4 disease who have elected to receive home dialysis within the
5 nursing home. The Board, however, may require these dialysis
6 facilities and licensed nursing homes to report statistical
7 information on a quarterly basis to the Board to be used by the
8 Board to conduct analyses on the need for proposed kidney
9 disease treatment centers.

10 This Act shall not apply to the closure of an entity or a
11 portion of an entity licensed under the Nursing Home Care Act,
12 with the exceptions of facilities operated by a county or
13 Illinois Veterans Homes, that elects to convert, in whole or in
14 part, to an assisted living or shared housing establishment
15 licensed under the Assisted Living and Shared Housing Act.

16 This Act does not apply to any change of ownership of a
17 healthcare facility that is licensed under the Nursing Home
18 Care Act, with the exceptions of facilities operated by a
19 county or Illinois Veterans Homes. Changes of ownership of
20 facilities licensed under the Nursing Home Care Act must meet
21 the requirements set forth in Sections 3-101 through 3-119 of
22 the Nursing Home Care Act.

23 With the exception of those health care facilities
24 specifically included in this Section, nothing in this Act
25 shall be intended to include facilities operated as a part of
26 the practice of a physician or other licensed health care

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

17 "Person" means any one or more natural persons, legal
18 entities, governmental bodies other than federal, or any
19 combination thereof.

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

1 financing of any type of health care facility, or (d) who is or
2 ever has been a member of the immediate family of the person
3 defined by (a), (b), or (c).

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

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

20 "Establish" means the construction of a health care
21 facility or the replacement of an existing facility on another
22 site.

23 "Major medical equipment" means medical equipment which is
24 used for the provision of medical and other health services and
25 which costs in excess of the capital expenditure minimum,
26 except that such term does not include medical equipment

1 acquired by or on behalf of a clinical laboratory to provide
2 clinical laboratory services if the clinical laboratory is
3 independent of a physician's office and a hospital and it has
4 been determined under Title XVIII of the Social Security Act to
5 meet the requirements of paragraphs (10) and (11) of Section
6 1861(s) of such Act. In determining whether medical equipment
7 has a value in excess of the capital expenditure minimum, the
8 value of studies, surveys, designs, plans, working drawings,
9 specifications, and other activities essential to the
10 acquisition of such equipment shall be included.

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

19 For the purpose of this paragraph, the cost of any studies,
20 surveys, designs, plans, working drawings, specifications, and
21 other activities essential to the acquisition, improvement,
22 expansion, or replacement of any plant or equipment with
23 respect to which an expenditure is made shall be included in
24 determining if such expenditure exceeds the capital
25 expenditures minimum. Donations of equipment or facilities to a
26 health care facility which if acquired directly by such

1 facility would be subject to review under this Act shall be
2 considered capital expenditures, and a transfer of equipment or
3 facilities for less than fair market value shall be considered
4 a capital expenditure for purposes of this Act if a transfer of
5 the equipment or facilities at fair market value would be
6 subject to review.

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

17 "Non-clinical service area" means an area (i) for the
18 benefit of the patients, visitors, staff, or employees of a
19 health care facility and (ii) not directly related to the
20 diagnosis, treatment, or rehabilitation of persons receiving
21 services from the health care facility. "Non-clinical service
22 areas" include, but are not limited to, chapels; gift shops;
23 news stands; computer systems; tunnels, walkways, and
24 elevators; telephone systems; projects to comply with life
25 safety codes; educational facilities; student housing;
26 patient, employee, staff, and visitor dining areas;

1 administration and volunteer offices; modernization of
2 structural components (such as roof replacement and masonry
3 work); boiler repair or replacement; vehicle maintenance and
4 storage facilities; parking facilities; mechanical systems for
5 heating, ventilation, and air conditioning; loading docks; and
6 repair or replacement of carpeting, tile, wall coverings,
7 window coverings or treatments, or furniture. Solely for the
8 purpose of this definition, "non-clinical service area" does
9 not include health and fitness centers.

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

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

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

24 "Local health planning organization" means those local
25 health planning organizations that are designated as such by
26 the areawide health planning organization of the appropriate

1 area.

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

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

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

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

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

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

19 "Out-of-state facility" means a person that is both (i)
20 licensed as a hospital or as an ambulatory surgery center under
21 the laws of another state or that qualifies as a hospital or an
22 ambulatory surgery center under regulations adopted pursuant
23 to the Social Security Act and (ii) not licensed under the
24 Ambulatory Surgical Treatment Center Act, the Hospital
25 Licensing Act, or the Nursing Home Care Act. Affiliates of
26 out-of-state facilities shall be considered out-of-state

1 facilities. Affiliates of Illinois licensed health care
2 facilities 100% owned by an Illinois licensed health care
3 facility, its parent, or Illinois physicians licensed to
4 practice medicine in all its branches shall not be considered
5 out-of-state facilities. Nothing in this definition shall be
6 construed to include an office or any part of an office of a
7 physician licensed to practice medicine in all its branches in
8 Illinois that is not required to be licensed under the
9 Ambulatory Surgical Treatment Center Act.

10 "Change of ownership of a health care facility" means a
11 change in the person who has ownership or control of a health
12 care facility's physical plant and capital assets. A change in
13 ownership is indicated by the following transactions: sale,
14 transfer, acquisition, lease, change of sponsorship, or other
15 means of transferring control.

16 "Related person" means any person that: (i) is at least 50%
17 owned, directly or indirectly, by either the health care
18 facility or a person owning, directly or indirectly, at least
19 50% of the health care facility; or (ii) owns, directly or
20 indirectly, at least 50% of the health care facility.

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

24 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
25 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; 94-342, eff.
26 7-26-05; revised 8-21-06.)

1 (20 ILCS 3960/14.1)

2 (Section scheduled to be repealed on April 1, 2007)

3 Sec. 14.1. Denial of permit; other sanctions.

4 (a) The State Board may deny an application for a permit or
5 may revoke or take other action as permitted by this Act with
6 regard to a permit as the State Board deems appropriate,
7 including the imposition of fines as set forth in this Section,
8 for any one or a combination of the following:

9 (1) The acquisition of major medical equipment without
10 a permit or in violation of the terms of a permit.

11 (2) The establishment, construction, or modification
12 of a health care facility without a permit or in violation
13 of the terms of a permit.

14 (3) The violation of any provision of this Act or any
15 rule adopted under this Act.

16 (4) The failure, by any person subject to this Act, to
17 provide information requested by the State Board or Agency
18 within 30 days after a formal written request for the
19 information.

20 (5) The failure to pay any fine imposed under this
21 Section within 30 days of its imposition.

22 (a-5) For facilities licensed under the Nursing Home Care
23 Act, no permit shall be denied on the basis of prior operator
24 history, other than for actions specified under item (2), (4),
25 or (5) of Section 3-117 of the Nursing Home Care Act.

1 (b) Persons shall be subject to fines as follows:

2 (1) A permit holder who fails to comply with the
3 requirements of maintaining a valid permit shall be fined
4 an amount not to exceed 1% of the approved permit amount
5 plus an additional 1% of the approved permit amount for
6 each 30-day period, or fraction thereof, that the violation
7 continues.

8 (2) A permit holder who alters the scope of an approved
9 project or whose project costs exceed the allowable permit
10 amount without first obtaining approval from the State
11 Board shall be fined an amount not to exceed the sum of (i)
12 the lesser of \$25,000 or 2% of the approved permit amount
13 and (ii) in those cases where the approved permit amount is
14 exceeded by more than \$1,000,000, an additional \$20,000 for
15 each \$1,000,000, or fraction thereof, in excess of the
16 approved permit amount.

17 (3) A person who acquires major medical equipment or
18 who establishes a category of service without first
19 obtaining a permit or exemption, as the case may be, shall
20 be fined an amount not to exceed \$10,000 for each such
21 acquisition or category of service established plus an
22 additional \$10,000 for each 30-day period, or fraction
23 thereof, that the violation continues.

24 (4) A person who constructs, modifies, or establishes a
25 health care facility without first obtaining a permit shall
26 be fined an amount not to exceed \$25,000 plus an additional

1 \$25,000 for each 30-day period, or fraction thereof, that
2 the violation continues.

3 (5) A person who discontinues a health care facility or
4 a category of service without first obtaining a permit
5 shall be fined an amount not to exceed \$10,000 plus an
6 additional \$10,000 for each 30-day period, or fraction
7 thereof, that the violation continues. For purposes of this
8 subparagraph (5), facilities licensed under the Nursing
9 Home Care Act, with the exceptions of facilities operated
10 by a county or Illinois Veterans Homes, are exempt from
11 this permit requirement. However, facilities licensed
12 under the Nursing Home Care Act must comply with Section
13 3-423 of that Act and must provide the Board with 30-days'
14 written notice of its intent to close.

15 (6) A person subject to this Act who fails to provide
16 information requested by the State Board or Agency within
17 30 days of a formal written request shall be fined an
18 amount not to exceed \$1,000 plus an additional \$1,000 for
19 each 30-day period, or fraction thereof, that the
20 information is not received by the State Board or Agency.

21 (c) Before imposing any fine authorized under this Section,
22 the State Board shall afford the person or permit holder, as
23 the case may be, an appearance before the State Board and an
24 opportunity for a hearing before a hearing officer appointed by
25 the State Board. The hearing shall be conducted in accordance
26 with Section 10.

1 (d) All fines collected under this Act shall be transmitted
2 to the State Treasurer, who shall deposit them into the
3 Illinois Health Facilities Planning Fund.

4 (Source: P.A. 88-18.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.