



Health Care Availability and Access Committee

Filed: 5/8/2007

09500SB1579ham001

LRB095 09004 DRJ 35895 a

1 AMENDMENT TO SENATE BILL 1579

2 AMENDMENT NO. _____. Amend Senate Bill 1579 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Section 3 and adding Section 5.1a as
6 follows:

7 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)
8 (Section scheduled to be repealed on May 31, 2007)

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

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

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

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

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

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

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

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

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

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

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

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

26 This Act does not apply to facilities granted waivers under

1 Section 3-102.2 of the Nursing Home Care Act. However, if a
2 demonstration project under that Act applies for a certificate
3 of need to convert to a nursing facility, it shall meet the
4 licensure and certificate of need requirements in effect as of
5 the date of application.

6 This Act does not apply to a dialysis facility that
7 provides only dialysis training, support, and related services
8 to individuals with end stage renal disease who have elected to
9 receive home dialysis. This Act does not apply to a dialysis
10 unit located in a licensed nursing home that offers or provides
11 dialysis-related services to residents with end stage renal
12 disease who have elected to receive home dialysis within the
13 nursing home. The Board, however, may require these dialysis
14 facilities and licensed nursing homes to report statistical
15 information on a quarterly basis to the Board to be used by the
16 Board to conduct analyses on the need for proposed kidney
17 disease treatment centers.

18 This Act shall not apply to the closure of an entity or a
19 portion of an entity licensed under the Nursing Home Care Act
20 that elects to convert, in whole or in part, to an assisted
21 living or shared housing establishment licensed under the
22 Assisted Living and Shared Housing 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 "Freestanding emergency center" means a facility subject
25 to licensure under Section 32.5 of the Emergency Medical
26 Services (EMS) Systems Act.

1 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
2 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; 94-342, eff.
3 7-26-05; revised 4-3-07.)

4 (20 ILCS 3960/5.1a new)

5 Sec. 5.1a. No person shall construct, modify, or establish
6 a freestanding emergency center in Illinois, or acquire major
7 medical equipment or make capital expenditures in relation to
8 such a facility in excess of the capital expenditure minimum,
9 as defined by this Act, without first obtaining a permit from
10 the State Board in accordance with criteria, standards, and
11 procedures adopted by the State Board for freestanding
12 emergency centers that ensure the availability of and community
13 access to essential emergency medical services.

14 Section 10. The Emergency Medical Services (EMS) Systems
15 Act is amended by changing Sections 3.20 and 32.5 as follows:

16 (210 ILCS 50/3.20)

17 Sec. 3.20. Emergency Medical Services (EMS) Systems.

18 (a) "Emergency Medical Services (EMS) System" means an
19 organization of hospitals, vehicle service providers and
20 personnel approved by the Department in a specific geographic
21 area, which coordinates and provides pre-hospital and
22 inter-hospital emergency care and non-emergency medical
23 transports at a BLS, ILS and/or ALS level pursuant to a System

1 program plan submitted to and approved by the Department, and
2 pursuant to the EMS Region Plan adopted for the EMS Region in
3 which the System is located.

4 (b) One hospital in each System program plan must be
5 designated as the Resource Hospital. All other hospitals which
6 are located within the geographic boundaries of a System and
7 which have standby, basic or comprehensive level emergency
8 departments must function in that EMS System as either an
9 Associate Hospital or Participating Hospital and follow all
10 System policies specified in the System Program Plan, including
11 but not limited to the replacement of drugs and equipment used
12 by providers who have delivered patients to their emergency
13 departments. All hospitals and vehicle service providers
14 participating in an EMS System must specify their level of
15 participation in the System Program Plan.

16 (c) The Department shall have the authority and
17 responsibility to:

18 (1) Approve BLS, ILS and ALS level EMS Systems which
19 meet minimum standards and criteria established in rules
20 adopted by the Department pursuant to this Act, including
21 the submission of a Program Plan for Department approval.
22 Beginning September 1, 1997, the Department shall approve
23 the development of a new EMS System only when a local or
24 regional need for establishing such System has been
25 identified. This shall not be construed as a needs
26 assessment for health planning or other purposes outside of

1 this Act. Following Department approval, EMS Systems must
2 be fully operational within one year from the date of
3 approval.

4 (2) Monitor EMS Systems, based on minimum standards for
5 continuing operation as prescribed in rules adopted by the
6 Department pursuant to this Act, which shall include
7 requirements for submitting Program Plan amendments to the
8 Department for approval.

9 (3) Renew EMS System approvals every 4 years, after an
10 inspection, based on compliance with the standards for
11 continuing operation prescribed in rules adopted by the
12 Department pursuant to this Act.

13 (4) Suspend, revoke, or refuse to renew approval of any
14 EMS System, after providing an opportunity for a hearing,
15 when findings show that it does not meet the minimum
16 standards for continuing operation as prescribed by the
17 Department, or is found to be in violation of its
18 previously approved Program Plan.

19 (5) Require each EMS System to adopt written protocols
20 for the bypassing of or diversion to any hospital, trauma
21 center or regional trauma center, which provide that a
22 person shall not be transported to a facility other than
23 the nearest hospital, regional trauma center or trauma
24 center unless the medical benefits to the patient
25 reasonably expected from the provision of appropriate
26 medical treatment at a more distant facility outweigh the

1 increased risks to the patient from transport to the more
2 distant facility, or the transport is in accordance with
3 the System's protocols for patient choice or refusal.

4 (6) Require that the EMS Medical Director of an ILS or
5 ALS level EMS System be a physician licensed to practice
6 medicine in all of its branches in Illinois, and certified
7 by the American Board of Emergency Medicine or the American
8 Board of Osteopathic Emergency Medicine, and that the EMS
9 Medical Director of a BLS level EMS System be a physician
10 licensed to practice medicine in all of its branches in
11 Illinois, with regular and frequent involvement in
12 pre-hospital emergency medical services. In addition, all
13 EMS Medical Directors shall:

14 (A) Have experience on an EMS vehicle at the
15 highest level available within the System, or make
16 provision to gain such experience within 12 months
17 prior to the date responsibility for the System is
18 assumed or within 90 days after assuming the position;

19 (B) Be thoroughly knowledgeable of all skills
20 included in the scope of practices of all levels of EMS
21 personnel within the System;

22 (C) Have or make provision to gain experience
23 instructing students at a level similar to that of the
24 levels of EMS personnel within the System; and

25 (D) For ILS and ALS EMS Medical Directors,
26 successfully complete a Department-approved EMS

1 Medical Director's Course.

2 (7) Prescribe statewide EMS data elements to be
3 collected and documented by providers in all EMS Systems
4 for all emergency and non-emergency medical services, with
5 a one-year phase-in for commencing collection of such data
6 elements.

7 (8) Define, through rules adopted pursuant to this Act,
8 the terms "Resource Hospital", "Associate Hospital",
9 "Participating Hospital", "Basic Emergency Department",
10 "Standby Emergency Department", "Comprehensive Emergency
11 Department", "EMS Medical Director", "EMS Administrative
12 Director", and "EMS System Coordinator".

13 (A) Upon the effective date of this amendatory Act
14 of 1995, all existing Project Medical Directors shall
15 be considered EMS Medical Directors, and all persons
16 serving in such capacities on the effective date of
17 this amendatory Act of 1995 shall be exempt from the
18 requirements of paragraph (7) of this subsection;

19 (B) Upon the effective date of this amendatory Act
20 of 1995, all existing EMS System Project Directors
21 shall be considered EMS Administrative Directors.

22 (9) Investigate the circumstances that caused a
23 hospital in an EMS system to go on bypass status to
24 determine whether that hospital's decision to go on bypass
25 status was reasonable. The Department may impose
26 sanctions, as set forth in Section 3.140 of the Act, upon a

1 Department determination that the hospital unreasonably
2 went on bypass status in violation of the Act.

3 (10) Evaluate the capacity and performance of any
4 freestanding emergency center established under Section
5 32.5 of this Act in meeting emergency medical service needs
6 of the public, including compliance with applicable
7 emergency medical standards and assurance of the
8 availability of and immediate access to the highest quality
9 of medical care possible.

10 (Source: P.A. 91-357, eff. 7-29-99.)

11 (210 ILCS 50/32.5)

12 Sec. 32.5. Freestanding Emergency Center.

13 (a) Until June 30, 2009, the ~~The~~ Department shall issue an
14 annual Freestanding Emergency Center (FEC) license to any
15 facility that:

16 (1) is located: (A) ~~(i) (A)~~ in a municipality with a
17 population of 75,000 or fewer inhabitants; (B) within 20 ~~15~~
18 miles of the hospital that owns or controls the FEC; and
19 (C) within 20 ~~10~~ miles of the Resource Hospital affiliated
20 with the FEC as part of the EMS System; ~~or (ii) (A) in a~~
21 ~~municipality that has a hospital that has been providing~~
22 ~~emergency services but is expected to close by the end of~~
23 ~~1997 and (B) in a county with a population of more than~~
24 ~~350,000 but less than 525,000 inhabitants;~~

25 (2) is wholly owned or controlled by an Associate or

1 Resource Hospital, but is not a part of the hospital's
2 physical plant;

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

5 (A) facility design, specification, operation, and
6 maintenance standards;

7 (B) equipment standards; and

8 (C) the number and qualifications of emergency
9 medical personnel and other staff, which must include
10 at least one board certified emergency physician
11 present at the FEC 24 hours per day.

12 (4) limits its participation in the EMS System strictly
13 to receiving a limited number of BLS runs by emergency
14 medical vehicles according to protocols developed by the
15 Resource Hospital within the FEC's designated EMS System
16 and approved by the Project Medical Director and the
17 Department;

18 (5) provides comprehensive emergency treatment
19 services, as defined in the rules adopted by the Department
20 pursuant to the Hospital Licensing Act, 24 hours per day,
21 on an outpatient basis;

22 (6) provides an ambulance and maintains on site
23 ambulance services staffed with paramedics 24 hours per
24 day;

25 (7) maintains helicopter landing capabilities approved
26 by appropriate State and federal authorities;

1 (8) complies with all State and federal patient rights
2 provisions, including, but not limited to, the Emergency
3 Medical Treatment Act and the federal Emergency Medical
4 Treatment and Active Labor Act;

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

8 (10) reports to the Department any patient transfers
9 from the FEC to a hospital within 48 hours of the transfer
10 plus any other data determined to be relevant by the
11 Department;

12 (11) submits to the Department, on a quarterly basis,
13 the FEC's morbidity and mortality rates for patients
14 treated at the FEC and other data determined to be relevant
15 by the Department;

16 (12) does not describe itself or hold itself out to the
17 general public as a full service hospital or hospital
18 emergency department in its advertising or marketing
19 activities;

20 (13) complies with any other rules adopted by the
21 Department under this Act that relate to FECs;

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

24 (15) submits a copy of the ~~a certificate of need or~~
25 ~~other~~ permit issued by the Illinois Health Facilities
26 Planning Board indicating that the facility has complied

1 with the Illinois Health Facilities Planning Act with
2 respect to the health services to be provided at the
3 facility that will house the proposed FEC complies with
4 State health planning laws; provided, however, that the
5 Illinois Health Facilities Planning Board shall waive this
6 certificate of need or permit requirement for any proposed
7 FEC that, as of the effective date of this amendatory Act
8 of 1996, meets the criteria for providing comprehensive
9 emergency treatment services, as defined by the rules
10 promulgated under the Hospital Licensing Act, but is not a
11 licensed hospital;

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

15 (17) pays the annual license fee as determined by the
16 Department by rule. ~~and~~

17 ~~(18) participated in the demonstration program.~~

18 (b) The Department shall:

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

23 (2) suspend, revoke, refuse to issue, or refuse to
24 renew the license of any FEC, after notice and an
25 opportunity for a hearing, when the Department finds that
26 the FEC has failed to comply with the standards and

1 requirements of the Act or rules adopted by the Department
2 under the Act;

3 (3) issue an Emergency Suspension Order for any FEC
4 when the Director or his or her designee has determined
5 that the continued operation of the FEC poses an immediate
6 and serious danger to the public health, safety, and
7 welfare. An opportunity for a hearing shall be promptly
8 initiated after an Emergency Suspension Order has been
9 issued; and

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

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

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.".