

SB3487



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3487

Introduced 2/14/2014, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3

from Ch. 111 1/2, par. 1153

Amends the Illinois Health Facilities Planning Act. Adds "managed care entities" to the definition of "health care facilities" under the Act. Effective immediately.

LRB098 20003 OMW 55230 b

A BILL FOR

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 Section 3 as follows:

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

7 (Section scheduled to be repealed on December 31, 2019)

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

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

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;

18 3.5. Skilled and intermediate care facilities licensed
19 under the ID/DD Community Care Act;

20 3.7. Facilities licensed under the Specialized Mental
21 Health Rehabilitation Act;

22 4. Hospitals, nursing homes, ambulatory surgical
23 treatment centers, or kidney disease treatment centers

1 maintained by the State or any department or agency
2 thereof;

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

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

10 7. An institution, place, building, or room used for
11 provision of a health care category of service, including,
12 but not limited to, cardiac catheterization and open heart
13 surgery; ~~and~~

14 8. An institution, place, building, or room used for
15 provision of major medical equipment used in the direct
16 clinical diagnosis or treatment of patients, and whose
17 project cost is in excess of the capital expenditure
18 minimum; and -

19 9. Managed care entities.

20 This Act shall not apply to the construction of any new
21 facility or the renovation of any existing facility located on
22 any campus facility as defined in Section 5-5.8b of the
23 Illinois Public Aid Code, provided that the campus facility
24 encompasses 30 or more contiguous acres and that the new or
25 renovated facility is intended for use by a licensed
26 residential facility.

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

4 No facility licensed under the Supportive Residences
5 Licensing Act or the Assisted Living and Shared Housing Act
6 shall be subject to the provisions of this Act.

7 No facility established and operating under the
8 Alternative Health Care Delivery Act as a children's respite
9 care center alternative health care model demonstration
10 program or as an Alzheimer's Disease Management Center
11 alternative health care model demonstration program shall be
12 subject to the provisions of this Act.

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

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

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

1 unit located in a licensed nursing home that offers or provides
2 dialysis-related services to residents with end stage renal
3 disease who have elected to receive home dialysis within the
4 nursing home. The Board, however, may require these dialysis
5 facilities and licensed nursing homes to report statistical
6 information on a quarterly basis to the Board to be used by the
7 Board to conduct analyses on the need for proposed kidney
8 disease treatment centers.

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

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

25 With the exception of those health care facilities
26 specifically included in this Section, nothing in this Act

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

21 No permit or exemption is required for a facility licensed
22 under the ID/DD Community Care Act prior to the reduction of
23 the number of beds at a facility. If there is a total reduction
24 of beds at a facility licensed under the ID/DD Community Care
25 Act, this is a discontinuation or closure of the facility.
26 However, if a facility licensed under the ID/DD Community Care

1 Act reduces the number of beds or discontinues the facility,
2 that facility must notify the Board as provided in Section 14.1
3 of this Act.

4 "Person" means any one or more natural persons, legal
5 entities, governmental bodies other than federal, or any
6 combination thereof.

7 "Consumer" means any person other than a person (a) whose
8 major occupation currently involves or whose official capacity
9 within the last 12 months has involved the providing,
10 administering or financing of any type of health care facility,
11 (b) who is engaged in health research or the teaching of
12 health, (c) who has a material financial interest in any
13 activity which involves the providing, administering or
14 financing of any type of health care facility, or (d) who is or
15 ever has been a member of the immediate family of the person
16 defined by (a), (b), or (c).

17 "State Board" or "Board" means the Health Facilities and
18 Services Review Board.

19 "Construction or modification" means the establishment,
20 erection, building, alteration, reconstruction, modernization,
21 improvement, extension, discontinuation, change of ownership,
22 of or by a health care facility, or the purchase or acquisition
23 by or through a health care facility of equipment or service
24 for diagnostic or therapeutic purposes or for facility
25 administration or operation, or any capital expenditure made by
26 or on behalf of a health care facility which exceeds the

1 capital expenditure minimum; however, any capital expenditure
2 made by or on behalf of a health care facility for (i) the
3 construction or modification of a facility licensed under the
4 Assisted Living and Shared Housing Act or (ii) a conversion
5 project undertaken in accordance with Section 30 of the Older
6 Adult Services Act shall be excluded from any obligations under
7 this Act.

8 "Establish" means the construction of a health care
9 facility or the replacement of an existing facility on another
10 site or the initiation of a category of service.

11 "Major medical equipment" means medical equipment which is
12 used for the provision of medical and other health services and
13 which costs in excess of the capital expenditure minimum,
14 except that such term does not include medical equipment
15 acquired by or on behalf of a clinical laboratory to provide
16 clinical laboratory services if the clinical laboratory is
17 independent of a physician's office and a hospital and it has
18 been determined under Title XVIII of the Social Security Act to
19 meet the requirements of paragraphs (10) and (11) of Section
20 1861(s) of such Act. In determining whether medical equipment
21 has a value in excess of the capital expenditure minimum, the
22 value of studies, surveys, designs, plans, working drawings,
23 specifications, and other activities essential to the
24 acquisition of such equipment shall be included.

25 "Capital Expenditure" means an expenditure: (A) made by or
26 on behalf of a health care facility (as such a facility is

1 defined in this Act); and (B) which under generally accepted
2 accounting principles is not properly chargeable as an expense
3 of operation and maintenance, or is made to obtain by lease or
4 comparable arrangement any facility or part thereof or any
5 equipment for a facility or part; and which exceeds the capital
6 expenditure minimum.

7 For the purpose of this paragraph, the cost of any studies,
8 surveys, designs, plans, working drawings, specifications, and
9 other activities essential to the acquisition, improvement,
10 expansion, or replacement of any plant or equipment with
11 respect to which an expenditure is made shall be included in
12 determining if such expenditure exceeds the capital
13 expenditures minimum. Unless otherwise interdependent, or
14 submitted as one project by the applicant, components of
15 construction or modification undertaken by means of a single
16 construction contract or financed through the issuance of a
17 single debt instrument shall not be grouped together as one
18 project. Donations of equipment or facilities to a health care
19 facility which if acquired directly by such facility would be
20 subject to review under this Act shall be considered capital
21 expenditures, and a transfer of equipment or facilities for
22 less than fair market value shall be considered a capital
23 expenditure for purposes of this Act if a transfer of the
24 equipment or facilities at fair market value would be subject
25 to review.

26 "Capital expenditure minimum" means \$11,500,000 for

1 projects by hospital applicants, \$6,500,000 for applicants for
2 projects related to skilled and intermediate care long-term
3 care facilities licensed under the Nursing Home Care Act, and
4 \$3,000,000 for projects by all other applicants, which shall be
5 annually adjusted to reflect the increase in construction costs
6 due to inflation, for major medical equipment and for all other
7 capital expenditures.

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

1 "Areawide" means a major area of the State delineated on a
2 geographic, demographic, and functional basis for health
3 planning and for health service and having within it one or
4 more local areas for health planning and health service. The
5 term "region", as contrasted with the term "subregion", and the
6 word "area" may be used synonymously with the term "areawide".

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

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

13 "Licensed health care professional" means a person
14 licensed to practice a health profession under pertinent
15 licensing statutes of the State of Illinois.

16 "Director" means the Director of the Illinois Department of
17 Public Health.

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

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

21 "Out-of-state facility" means a person that is both (i)
22 licensed as a hospital or as an ambulatory surgery center under
23 the laws of another state or that qualifies as a hospital or an
24 ambulatory surgery center under regulations adopted pursuant
25 to the Social Security Act and (ii) not licensed under the
26 Ambulatory Surgical Treatment Center Act, the Hospital

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

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

18 "Related person" means any person that: (i) is at least 50%
19 owned, directly or indirectly, by either the health care
20 facility or a person owning, directly or indirectly, at least
21 50% of the health care facility; or (ii) owns, directly or
22 indirectly, at least 50% of the health care facility.

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

26 "Freestanding emergency center" means a facility subject

1 to licensure under Section 32.5 of the Emergency Medical
2 Services (EMS) Systems Act.

3 "Category of service" means a grouping by generic class of
4 various types or levels of support functions, equipment, care,
5 or treatment provided to patients or residents, including, but
6 not limited to, classes such as medical-surgical, pediatrics,
7 or cardiac catheterization. A category of service may include
8 subcategories or levels of care that identify a particular
9 degree or type of care within the category of service. Nothing
10 in this definition shall be construed to include the practice
11 of a physician or other licensed health care professional while
12 functioning in an office providing for the care, diagnosis, or
13 treatment of patients. A category of service that is subject to
14 the Board's jurisdiction must be designated in rules adopted by
15 the Board.

16 (Source: P.A. 97-38, eff. 6-28-11; 97-277, eff. 1-1-12; 97-813,
17 eff. 7-13-12; 97-980, eff. 8-17-12; 98-414, eff. 1-1-14.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.