



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3222

by Rep. Pamela Reaves-Harris

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3
210 ILCS 85/4

from Ch. 111 1/2, par. 1153
from Ch. 111 1/2, par. 145

Amends the Illinois Health Facilities Planning Act. Provides that the term "health care facilities" does not include a facility licensed as a hospital under the Hospital Licensing Act that reopens under new ownership at the same location within 36 months of the facility's closure. Amends the Hospital Licensing Act. Provides that any hospital that has closed for any reason, except for license revocation by the Department of Public Health for failure to comply with the Act, may reopen under new ownership or management, or both, within 3 years of its closing date without reapplying for a license under the Act if the facility is reopening at the same location and in the same physical structure. Effective immediately.

LRB099 10152 RPS 30375 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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7 (Section scheduled to be repealed on December 31, 2019)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
12 to be licensed pursuant to the Ambulatory Surgical
13 Treatment Center Act.

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

17 (3) Skilled and intermediate long term care facilities
18 licensed under the Nursing Home Care Act.

19 (A) If a demonstration project under the Nursing
20 Home Care Act applies for a certificate of need to
21 convert to a nursing facility, it shall meet the
22 licensure and certificate of need requirements in
23 effect as of the date of application.

1 (B) Except as provided in item (A) of this
2 subsection, this Act does not apply to facilities
3 granted waivers under Section 3-102.2 of the Nursing
4 Home Care Act.

5 (3.5) Skilled and intermediate care facilities
6 licensed under the ID/DD Community Care Act. ~~(A)~~ No permit
7 or exemption is required for a facility licensed under the
8 ID/DD Community Care Act prior to the reduction of the
9 number of beds at a facility. If there is a total reduction
10 of beds at a facility licensed under the ID/DD Community
11 Care Act, this is a discontinuation or closure of the
12 facility. If a facility licensed under the ID/DD Community
13 Care Act reduces the number of beds or discontinues the
14 facility, that facility must notify the Board as provided
15 in Section 14.1 of this Act.

16 (3.7) Facilities licensed under the Specialized Mental
17 Health Rehabilitation Act of 2013.

18 (4) Hospitals, nursing homes, ambulatory surgical
19 treatment centers, or kidney disease treatment centers
20 maintained by the State or any department or agency
21 thereof.

22 (5) Kidney disease treatment centers, including a
23 free-standing hemodialysis unit required to be licensed
24 under the End Stage Renal Disease Facility Act.

25 (A) This Act does not apply to a dialysis facility
26 that provides only dialysis training, support, and

1 related services to individuals with end stage renal
2 disease who have elected to receive home dialysis.

3 (B) This Act does not apply to a dialysis unit
4 located in a licensed nursing home that offers or
5 provides dialysis-related services to residents with
6 end stage renal disease who have elected to receive
7 home dialysis within the nursing home.

8 (C) The Board, however, may require dialysis
9 facilities and licensed nursing homes under items (A)
10 and (B) of this subsection to report statistical
11 information on a quarterly basis to the Board to be
12 used by the Board to conduct analyses on the need for
13 proposed kidney disease treatment centers.

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

18 (7) An institution, place, building, or room used for
19 provision of a health care category of service, including,
20 but not limited to, cardiac catheterization and open heart
21 surgery.

22 (8) An institution, place, building, or room housing
23 major medical equipment used in the direct clinical
24 diagnosis or treatment of patients, and whose project cost
25 is in excess of the capital expenditure minimum.

26 "Health care facilities" does not include the following

1 entities or facility transactions:

2 (1) Federally-owned facilities.

3 (2) Facilities used solely for healing by prayer or
4 spiritual means.

5 (3) An existing facility located on any campus facility
6 as defined in Section 5-5.8b of the Illinois Public Aid
7 Code, provided that the campus facility encompasses 30 or
8 more contiguous acres and that the new or renovated
9 facility is intended for use by a licensed residential
10 facility.

11 (4) Facilities licensed under the Supportive
12 Residences Licensing Act or the Assisted Living and Shared
13 Housing Act.

14 (5) Facilities designated as supportive living
15 facilities that are in good standing with the program
16 established under Section 5-5.01a of the Illinois Public
17 Aid Code.

18 (6) Facilities established and operating under the
19 Alternative Health Care Delivery Act as a children's
20 community-based health care center ~~children's respite care~~
21 ~~center~~ alternative health care model demonstration program
22 or as an Alzheimer's Disease Management Center alternative
23 health care model demonstration program.

24 (7) The closure of an entity or a portion of an entity
25 licensed under the Nursing Home Care Act, the Specialized
26 Mental Health Rehabilitation Act of 2013, or the ID/DD

1 Community Care Act, with the exception of facilities
2 operated by a county or Illinois Veterans Homes, that elect
3 to convert, in whole or in part, to an assisted living or
4 shared housing establishment licensed under the Assisted
5 Living and Shared Housing Act and with the exception of a
6 facility licensed under the Specialized Mental Health
7 Rehabilitation Act of 2013 in connection with a proposal to
8 close a facility and re-establish the facility in another
9 location.

10 (8) Any change of ownership of a health care ~~healthcare~~
11 facility that is licensed under the Nursing Home Care Act,
12 the Specialized Mental Health Rehabilitation Act of 2013,
13 or the ID/DD Community Care Act, with the exception of
14 facilities operated by a county or Illinois Veterans Homes.
15 Changes of ownership of facilities licensed under the
16 Nursing Home Care Act must meet the requirements set forth
17 in Sections 3-101 through 3-119 of the Nursing Home Care
18 Act. ~~children's community based health care center of 2013~~
19 ~~and with the exception of a facility licensed under the~~
20 ~~Specialized Mental Health Rehabilitation Act of 2013 in~~
21 ~~connection with a proposal to close a facility and~~
22 ~~re-establish the facility in another location of 2013~~

23 (9) Any facility licensed as a hospital under the
24 Hospital Licensing Act that reopens under new ownership at
25 the same location within 36 months of the facility's
26 closure.

1 With the exception of those health care facilities
2 specifically included in this Section, nothing in this Act
3 shall be intended to include facilities operated as a part of
4 the practice of a physician or other licensed health care
5 professional, whether practicing in his individual capacity or
6 within the legal structure of any partnership, medical or
7 professional corporation, or unincorporated medical or
8 professional group. Further, this Act shall not apply to
9 physicians or other licensed health care professional's
10 practices where such practices are carried out in a portion of
11 a health care facility under contract with such health care
12 facility by a physician or by other licensed health care
13 professionals, whether practicing in his individual capacity
14 or within the legal structure of any partnership, medical or
15 professional corporation, or unincorporated medical or
16 professional groups, unless the entity constructs, modifies,
17 or establishes a health care facility as specifically defined
18 in this Section. This Act shall apply to construction or
19 modification and to establishment by such health care facility
20 of such contracted portion which is subject to facility
21 licensing requirements, irrespective of the party responsible
22 for such action or attendant financial obligation.

23 "Person" means any one or more natural persons, legal
24 entities, governmental bodies other than federal, or any
25 combination thereof.

26 "Consumer" means any person other than a person (a) whose

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

10 "State Board" or "Board" means the Health Facilities and
11 Services Review Board.

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

1 "Establish" means the construction of a health care
2 facility or the replacement of an existing facility on another
3 site or the initiation of a category of service.

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

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

26 For the purpose of this paragraph, the cost of any studies,

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

19 "Capital expenditure minimum" means \$11,500,000 for
20 projects by hospital applicants, \$6,500,000 for applicants for
21 projects related to skilled and intermediate care long-term
22 care facilities licensed under the Nursing Home Care Act, and
23 \$3,000,000 for projects by all other applicants, which shall be
24 annually adjusted to reflect the increase in construction costs
25 due to inflation, for major medical equipment and for all other
26 capital expenditures.

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

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

26 "Local" means a subarea of a delineated major area that on

1 a geographic, demographic, and functional basis may be
2 considered to be part of such major area. The term "subregion"
3 may be used synonymously with the term "local".

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

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

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

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

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

14 "Out-of-state facility" means a person that is both (i)
15 licensed as a hospital or as an ambulatory surgery center under
16 the laws of another state or that qualifies as a hospital or an
17 ambulatory surgery center under regulations adopted pursuant
18 to the Social Security Act and (ii) not licensed under the
19 Ambulatory Surgical Treatment Center Act, the Hospital
20 Licensing Act, or the Nursing Home Care Act. Affiliates of
21 out-of-state facilities shall be considered out-of-state
22 facilities. Affiliates of Illinois licensed health care
23 facilities 100% owned by an Illinois licensed health care
24 facility, its parent, or Illinois physicians licensed to
25 practice medicine in all its branches shall not be considered
26 out-of-state facilities. Nothing in this definition shall be

1 construed to include an office or any part of an office of a
2 physician licensed to practice medicine in all its branches in
3 Illinois that is not required to be licensed under the
4 Ambulatory Surgical Treatment Center Act.

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

11 "Related person" means any person that: (i) is at least 50%
12 owned, directly or indirectly, by either the health care
13 facility or a person owning, directly or indirectly, at least
14 50% of the health care facility; or (ii) owns, directly or
15 indirectly, at least 50% of the health care facility.

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

19 "Freestanding emergency center" means a facility subject
20 to licensure under Section 32.5 of the Emergency Medical
21 Services (EMS) Systems Act.

22 "Category of service" means a grouping by generic class of
23 various types or levels of support functions, equipment, care,
24 or treatment provided to patients or residents, including, but
25 not limited to, classes such as medical-surgical, pediatrics,
26 or cardiac catheterization. A category of service may include

1 subcategories or levels of care that identify a particular
2 degree or type of care within the category of service. Nothing
3 in this definition shall be construed to include the practice
4 of a physician or other licensed health care professional while
5 functioning in an office providing for the care, diagnosis, or
6 treatment of patients. A category of service that is subject to
7 the Board's jurisdiction must be designated in rules adopted by
8 the Board.

9 "State Board Staff Report" means the document that sets
10 forth the review and findings of the State Board staff, as
11 prescribed by the State Board, regarding applications subject
12 to Board jurisdiction.

13 (Source: P.A. 97-38, eff. 6-28-11; 97-277, eff. 1-1-12; 97-813,
14 eff. 7-13-12; 97-980, eff. 8-17-12; 98-414, eff. 1-1-14;
15 98-629, eff. 1-1-15; 98-651, eff. 6-16-14; 98-1086, eff.
16 8-26-14; revised 10-22-14.)

17 Section 10. The Hospital Licensing Act is amended by
18 changing Section 4 as follows:

19 (210 ILCS 85/4) (from Ch. 111 1/2, par. 145)

20 Sec. 4. No person shall establish a hospital without first
21 obtaining a permit from the Department and no person shall
22 open, conduct, operate, or maintain a hospital without first
23 obtaining a license from the Department.

24 Any hospital that has closed for any reason, except for

1 license revocation by the Department for failure to comply with
2 this Act, may reopen under new ownership or management, or
3 both, within 3 years of the hospital's closing date without
4 reapplying for a license under this Act if the hospital is
5 reopening at the same location and in the same physical
6 structure.

7 Nothing in this Act shall be construed to impair or abridge
8 the power of municipalities to license and regulate hospitals,
9 provided that the municipal ordinance substantially complies
10 with the minimum standards and regulations developed by the
11 Department pursuant to the provisions of this Act. Such
12 compliance shall be determined by the Department subject to
13 review as provided in Section 13 of this Act. Section 13 of
14 this Act shall also be applicable to the judicial review of
15 final administrative decisions of the regulatory agency of the
16 municipality. Any municipality having an ordinance licensing
17 and regulating hospitals which provides for minimum standards
18 and regulations substantially in compliance with those
19 developed pursuant to this Act shall make such periodic reports
20 to the Department as the Department deems necessary. This
21 report shall include a list of hospitals meeting standards
22 substantially equivalent to those promulgated by the
23 Department under this Act, and upon the receipt of such report
24 the Department may then issue a license to such hospital.

25 (Source: Laws 1965, p. 2350.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.