



Health Care Availability and Access Committee

Filed: 3/11/2008

09500HB5193ham001

LRB095 15939 DRJ 48099 a

1 AMENDMENT TO HOUSE BILL 5193

2 AMENDMENT NO. _____. Amend House Bill 5193 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Hospital Licensing Act is amended by
5 changing Section 10.4 as follows:

6 (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

7 Sec. 10.4. Medical staff privileges.

8 (a) Any hospital licensed under this Act or any hospital
9 organized under the University of Illinois Hospital Act shall,
10 prior to the granting of any medical staff privileges to an
11 applicant, or renewing a current medical staff member's
12 privileges, request of the Director of Professional Regulation
13 information concerning the licensure status and any
14 disciplinary action taken against the applicant's or medical
15 staff member's license, except: (1) for medical personnel who
16 enter a hospital to obtain organs and tissues for transplant

1 from a donor in accordance with the Illinois Anatomical Gift
2 Act; or (2) for medical personnel who have been granted
3 disaster privileges pursuant to the procedures and
4 requirements established by rules adopted by the Department.
5 Any hospital and any employees of the hospital or others
6 involved in granting privileges who, in good faith, grant
7 disaster privileges pursuant to this Section to respond to an
8 emergency shall not, as a result of their acts or omissions, be
9 liable for civil damages for granting or denying disaster
10 privileges except in the event of willful and wanton
11 misconduct, as that term is defined in Section 10.2 of this
12 Act. Individuals granted privileges who provide care in an
13 emergency situation, in good faith and without direct
14 compensation, shall not, as a result of their acts or
15 omissions, except for acts or omissions involving willful and
16 wanton misconduct, as that term is defined in Section 10.2 of
17 this Act, on the part of the person, be liable for civil
18 damages. The Director of Professional Regulation shall
19 transmit, in writing and in a timely fashion, such information
20 regarding the license of the applicant or the medical staff
21 member, including the record of imposition of any periods of
22 supervision or monitoring as a result of alcohol or substance
23 abuse, as provided by Section 23 of the Medical Practice Act of
24 1987, and such information as may have been submitted to the
25 Department indicating that the application or medical staff
26 member has been denied, or has surrendered, medical staff

1 privileges at a hospital licensed under this Act, or any
2 equivalent facility in another state or territory of the United
3 States. The Director of Professional Regulation shall define by
4 rule the period for timely response to such requests.

5 No transmittal of information by the Director of
6 Professional Regulation, under this Section shall be to other
7 than the president, chief operating officer, chief
8 administrative officer, or chief of the medical staff of a
9 hospital licensed under this Act, a hospital organized under
10 the University of Illinois Hospital Act, or a hospital operated
11 by the United States, or any of its instrumentalities. The
12 information so transmitted shall be afforded the same status as
13 is information concerning medical studies by Part 21 of Article
14 VIII of the Code of Civil Procedure, as now or hereafter
15 amended.

16 (b) All hospitals licensed under this Act, except county
17 hospitals as defined in subsection (c) of Section 15-1 of the
18 Illinois Public Aid Code, shall comply with, and the medical
19 staff bylaws of these hospitals shall include rules consistent
20 with, the provisions of this Section in granting, limiting,
21 renewing, or denying medical staff membership and clinical
22 staff privileges. Hospitals that require medical staff members
23 to possess faculty status with a specific institution of higher
24 education are not required to comply with subsection (1) below
25 when the physician does not possess faculty status.

26 (1) Minimum procedures for pre-applicants and

1 applicants for medical staff membership shall include the
2 following:

3 (A) Written procedures relating to the acceptance
4 and processing of pre-applicants or applicants for
5 medical staff membership, which should be contained in
6 medical staff bylaws.

7 (B) Written procedures to be followed in
8 determining a pre-applicant's or an applicant's
9 qualifications for being granted medical staff
10 membership and privileges.

11 (C) Written criteria to be followed in evaluating a
12 pre-applicant's or an applicant's qualifications.

13 (D) An evaluation of a pre-applicant's or an
14 applicant's current health status and current license
15 status in Illinois.

16 (E) A written response to each pre-applicant or
17 applicant that explains the reason or reasons for any
18 adverse decision (including all reasons based in whole
19 or in part on the applicant's medical qualifications or
20 any other basis, including economic factors).

21 (2) Minimum procedures with respect to medical staff
22 and clinical privilege determinations concerning current
23 members of the medical staff shall include the following:

24 (A) A written notice of an adverse decision.

25 (B) An explanation of the reasons for an adverse
26 decision including all reasons based on the quality of

1 medical care or any other basis, including economic
2 factors.

3 (C) A statement of the medical staff member's right
4 to request a fair hearing on the adverse decision
5 before a hearing panel whose membership is mutually
6 agreed upon by the medical staff and the hospital
7 governing board. The hearing panel shall have
8 independent authority to recommend action to the
9 hospital governing board. Upon the request of the
10 medical staff member or the hospital governing board,
11 the hearing panel shall make findings concerning the
12 nature of each basis for any adverse decision
13 recommended to and accepted by the hospital governing
14 board.

15 (i) Nothing in this subparagraph (C) limits a
16 hospital's or medical staff's right to summarily
17 suspend, without a prior hearing, a person's
18 medical staff membership or clinical privileges if
19 the continuation of practice of a medical staff
20 member constitutes an immediate danger to the
21 public, including patients, visitors, and hospital
22 employees and staff. In the event that a hospital
23 or the medical staff imposes a summary suspension,
24 the Medical Executive Committee, or other
25 comparable governance committee of the medical
26 staff as specified in the bylaws, must meet as soon

1 as is reasonably possible to review the suspension
2 and to recommend whether it should be affirmed,
3 lifted, expunged, or modified if the suspended
4 physician requests such review. A summary
5 suspension may not be implemented unless there is
6 actual documentation or other reliable information
7 that an immediate danger exists. This
8 documentation or information must be available at
9 the time the summary suspension decision is made
10 and when the decision is reviewed by the Medical
11 Executive Committee. If the Medical Executive
12 Committee recommends that the summary suspension
13 should be lifted, expunged, or modified, this
14 recommendation must be reviewed and considered by
15 the hospital governing board, or a committee of the
16 board, on an expedited basis. Nothing in this
17 subparagraph (C) shall affect the requirement that
18 any requested hearing must be commenced within 15
19 days after the summary suspension and completed
20 without delay unless otherwise agreed to by the
21 parties. A fair hearing shall be commenced within
22 15 days after the suspension and completed without
23 delay, except that when the medical staff member's
24 license to practice has been suspended or revoked
25 by the State's licensing authority, no hearing
26 shall be necessary.

1 (ii) Nothing in this subparagraph (C) limits a
2 medical staff's right to permit, in the medical
3 staff bylaws, summary suspension of membership or
4 clinical privileges in designated administrative
5 circumstances as specifically approved by the
6 medical staff. This bylaw provision must
7 specifically describe both the administrative
8 circumstance that can result in a summary
9 suspension and the length of the summary
10 suspension. The opportunity for a fair hearing is
11 required for any administrative summary
12 suspension. Any requested hearing must be
13 commenced within 15 days after the summary
14 suspension and completed without delay. Adverse
15 decisions other than suspension or other
16 restrictions on the treatment or admission of
17 patients may be imposed summarily and without a
18 hearing under designated administrative
19 circumstances as specifically provided for in the
20 medical staff bylaws as approved by the medical
21 staff.

22 (iii) If a hospital exercises its option to
23 enter into an exclusive contract and that contract
24 results in the total or partial termination or
25 reduction of medical staff membership or clinical
26 privileges of a current medical staff member, the

1 hospital shall provide the affected medical staff
2 member 60 days prior notice of the effect on his or
3 her medical staff membership or privileges. An
4 affected medical staff member desiring a hearing
5 under subparagraph (C) of this paragraph (2) must
6 request the hearing within 14 days after the date
7 he or she is so notified. The requested hearing
8 shall be commenced and completed (with a report and
9 recommendation to the affected medical staff
10 member, hospital governing board, and medical
11 staff) within 30 days after the date of the medical
12 staff member's request. If agreed upon by both the
13 medical staff and the hospital governing board,
14 the medical staff bylaws may provide for longer
15 time periods.

16 (C-5) All peer review used for the purpose of
17 credentialing, privileging, disciplinary action, or
18 other recommendations affecting medical staff
19 membership or exercise of clinical privileges, whether
20 relying in whole or in part on internal or external
21 reviews, shall be conducted in accordance with the
22 medical staff bylaws and applicable rules,
23 regulations, or policies of the medical staff. If
24 external review is obtained, any adverse report
25 utilized shall be in writing and shall be made part of
26 the internal peer review process under the bylaws. The

1 report shall also be shared with a medical staff peer
2 review committee and the individual under review. If
3 the medical staff peer review committee or the
4 individual under review prepares a written response to
5 the report of the external peer review within 30 days
6 after receiving such report, the governing board shall
7 consider the response prior to the implementation of
8 any final actions by the governing board which may
9 affect the individual's medical staff membership or
10 clinical privileges. Any peer review that involves
11 willful or wanton misconduct shall be subject to civil
12 damages as provided for under Section 10.2 of this Act.

13 (D) A statement of the member's right to inspect
14 all pertinent information in the hospital's possession
15 with respect to the decision.

16 (E) A statement of the member's right to present
17 witnesses and other evidence at the hearing on the
18 decision.

19 (F) A written notice and written explanation of the
20 decision resulting from the hearing.

21 (F-5) A written notice of a final adverse decision
22 by a hospital governing board.

23 (G) Notice given 15 days before implementation of
24 an adverse medical staff membership or clinical
25 privileges decision based substantially on economic
26 factors. This notice shall be given after the medical

1 staff member exhausts all applicable procedures under
2 this Section, including item (iii) of subparagraph (C)
3 of this paragraph (2), and under the medical staff
4 bylaws in order to allow sufficient time for the
5 orderly provision of patient care.

6 (H) Nothing in this paragraph (2) of this
7 subsection (b) limits a medical staff member's right to
8 waive, in writing, the rights provided in
9 subparagraphs (A) through (G) of this paragraph (2) of
10 this subsection (b) upon being granted the written
11 exclusive right to provide particular services at a
12 hospital, either individually or as a member of a
13 group. If an exclusive contract is signed by a
14 representative of a group of physicians, a waiver
15 contained in the contract shall apply to all members of
16 the group unless stated otherwise in the contract.

17 (3) Every adverse medical staff membership and
18 clinical privilege decision based substantially on
19 economic factors shall be reported to the Hospital
20 Licensing Board before the decision takes effect. These
21 reports shall not be disclosed in any form that reveals the
22 identity of any hospital or physician. These reports shall
23 be utilized to study the effects that hospital medical
24 staff membership and clinical privilege decisions based
25 upon economic factors have on access to care and the
26 availability of physician services. The Hospital Licensing

1 Board shall submit an initial study to the Governor and the
2 General Assembly by January 1, 1996, and subsequent reports
3 shall be submitted periodically thereafter.

4 (4) As used in this Section:

5 "Adverse decision" means a decision reducing,
6 restricting, suspending, revoking, denying, or not
7 renewing medical staff membership or clinical privileges.

8 "Economic factor" means any information or reasons for
9 decisions unrelated to quality of care or professional
10 competency.

11 "Pre-applicant" means a physician licensed to practice
12 medicine in all its branches who requests an application
13 for medical staff membership or privileges.

14 "Privilege" means permission to provide medical or
15 other patient care services and permission to use hospital
16 resources, including equipment, facilities and personnel
17 that are necessary to effectively provide medical or other
18 patient care services. This definition shall not be
19 construed to require a hospital to acquire additional
20 equipment, facilities, or personnel to accommodate the
21 granting of privileges.

22 (5) Any amendment to medical staff bylaws required
23 because of this amendatory Act of the 91st General Assembly
24 shall be adopted on or before July 1, 2001.

25 (c) All hospitals shall consult with the medical staff
26 prior to closing membership in the entire or any portion of the

1 medical staff or a department. If the hospital closes
2 membership in the medical staff, any portion of the medical
3 staff, or the department over the objections of the medical
4 staff, then the hospital shall provide a detailed written
5 explanation for the decision to the medical staff 10 days prior
6 to the effective date of any closure. No applications need to
7 be provided when membership in the medical staff or any
8 relevant portion of the medical staff is closed.

9 (Source: P.A. 95-331, eff. 8-21-07.)

10 Section 99. Effective date. This Act takes effect June 1,
11 2008."