



Sen. Heather A. Steans

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09700SB2887sam001

LRB097 17229 PJG 67051 a

1 AMENDMENT TO SENATE BILL 2887

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2887 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 Sections 3, 13, and 14.1 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7 (Section scheduled to be repealed on December 31, 2019)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 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

1 licensed under the Nursing Home Care Act;

2 3.5. Skilled and intermediate care facilities licensed  
3 under the ID/DD Community Care Act;

4 3.7. Facilities licensed under the Specialized Mental  
5 Health Rehabilitation Act;

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

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

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

17 7. An institution, place, building, or room used for  
18 provision of a health care category of service as defined  
19 by the Board, including, but not limited to, cardiac  
20 catheterization and open heart surgery; and

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

26 This Act shall not apply to the construction of any new

1 facility or the renovation of any existing facility located on  
2 any campus facility as defined in Section 5-5.8b of the  
3 Illinois Public Aid Code, provided that the campus facility  
4 encompasses 30 or more contiguous acres and that the new or  
5 renovated facility is intended for use by a licensed  
6 residential facility.

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

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

13 No facility established and operating under the  
14 Alternative Health Care Delivery Act as a children's respite  
15 care center alternative health care model demonstration  
16 program or as an Alzheimer's Disease Management Center  
17 alternative health care model demonstration program shall be  
18 subject to the provisions of this Act.

19 A facility designated as a supportive living facility that  
20 is in good standing with the program established under Section  
21 5-5.01a of the Illinois Public Aid Code shall not be subject to  
22 the provisions of this Act.

23 This Act does not apply to facilities granted waivers under  
24 Section 3-102.2 of the Nursing Home Care Act. However, if a  
25 demonstration project under that Act applies for a certificate  
26 of need to convert to a nursing facility, it shall meet the

1 licensure and certificate of need requirements in effect as of  
2 the date of application.

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

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

23 This Act does not apply to any change of ownership of a  
24 healthcare facility that is licensed under the Nursing Home  
25 Care Act, the Specialized Mental Health Rehabilitation Act, or  
26 the ID/DD Community Care Act, with the exceptions of facilities

1 operated by a county or Illinois Veterans Homes. Changes of  
2 ownership of facilities licensed under the Nursing Home Care  
3 Act must meet the requirements set forth in Sections 3-101  
4 through 3-119 of the Nursing Home Care Act.

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

25 No permit or exemption is required for a facility licensed  
26 under the ID/DD Community Care Act prior to the reduction of

1 the number of beds at a facility. If there is a total reduction  
2 of beds at a facility licensed under the ID/DD Community Care  
3 Act, this is a discontinuation or closure of the facility.  
4 However, if a facility licensed under the ID/DD Community Care  
5 Act reduces the number of beds or discontinues the facility,  
6 that facility must notify the Board as provided in Section 14.1  
7 of this Act.

8 "Person" means any one or more natural persons, legal  
9 entities, governmental bodies other than federal, or any  
10 combination thereof.

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

21 "State Board" or "Board" means the Health Facilities and  
22 Services Review Board.

23 "Construction or modification" means the establishment,  
24 erection, building, alteration, reconstruction, modernization,  
25 improvement, extension, discontinuation, change of ownership,  
26 of or by a health care facility, or the purchase or acquisition

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

12 "Establish" means the construction of a health care  
13 facility or the replacement of an existing facility on another  
14 site or the initiation of a category of service as defined by  
15 the Board.

16 "Major medical equipment" means medical equipment which is  
17 used for the provision of medical and other health services and  
18 which costs in excess of the capital expenditure minimum,  
19 except that such term does not include medical equipment  
20 acquired by or on behalf of a clinical laboratory to provide  
21 clinical laboratory services if the clinical laboratory is  
22 independent of a physician's office and a hospital and it has  
23 been determined under Title XVIII of the Social Security Act to  
24 meet the requirements of paragraphs (10) and (11) of Section  
25 1861(s) of such Act. In determining whether medical equipment  
26 has a value in excess of the capital expenditure minimum, the

1 value of studies, surveys, designs, plans, working drawings,  
2 specifications, and other activities essential to the  
3 acquisition of such equipment shall be included.

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

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



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

5 "Capital expenditure minimum" means \$11,500,000 for  
6 projects by hospital applicants, \$6,500,000 for applicants for  
7 projects related to skilled and intermediate care long-term  
8 care facilities licensed under the Nursing Home Care Act, and  
9 \$3,000,000 for projects by all other applicants, which shall be  
10 annually adjusted to reflect the increase in construction costs  
11 due to inflation, for major medical equipment and for all other  
12 capital expenditures.

13 "Non-clinical service area" means an area (i) for the  
14 benefit of the patients, visitors, staff, or employees of a  
15 health care facility and (ii) not directly related to the  
16 diagnosis, treatment, or rehabilitation of persons receiving  
17 services from the health care facility. "Non-clinical service  
18 areas" include, but are not limited to, chapels; gift shops;  
19 news stands; computer systems; tunnels, walkways, and  
20 elevators; telephone systems; projects to comply with life  
21 safety codes; educational facilities; student housing;  
22 patient, employee, staff, and visitor dining areas;  
23 administration and volunteer offices; modernization of  
24 structural components (such as roof replacement and masonry  
25 work); boiler repair or replacement; vehicle maintenance and  
26 storage facilities; parking facilities; mechanical systems for

1 heating, ventilation, and air conditioning; loading docks; and  
2 repair or replacement of carpeting, tile, wall coverings,  
3 window coverings or treatments, or furniture. Solely for the  
4 purpose of this definition, "non-clinical service area" does  
5 not include health and fitness centers.

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

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

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

18 "Licensed health care professional" means a person  
19 licensed to practice a health profession under pertinent  
20 licensing statutes of the State of Illinois.

21 "Director" means the Director of the Illinois Department of  
22 Public Health.

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

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

26 "Out-of-state facility" means a person that is both (i)

1 licensed as a hospital or as an ambulatory surgery center under  
2 the laws of another state or that qualifies as a hospital or an  
3 ambulatory surgery center under regulations adopted pursuant  
4 to the Social Security Act and (ii) not licensed under the  
5 Ambulatory Surgical Treatment Center Act, the Hospital  
6 Licensing Act, or the Nursing Home Care Act. Affiliates of  
7 out-of-state facilities shall be considered out-of-state  
8 facilities. Affiliates of Illinois licensed health care  
9 facilities 100% owned by an Illinois licensed health care  
10 facility, its parent, or Illinois physicians licensed to  
11 practice medicine in all its branches shall not be considered  
12 out-of-state facilities. Nothing in this definition shall be  
13 construed to include an office or any part of an office of a  
14 physician licensed to practice medicine in all its branches in  
15 Illinois that is not required to be licensed under the  
16 Ambulatory Surgical Treatment Center Act.

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

23 "Related person" means any person that: (i) is at least 50%  
24 owned, directly or indirectly, by either the health care  
25 facility or a person owning, directly or indirectly, at least  
26 50% of the health care facility; or (ii) owns, directly or

1 indirectly, at least 50% of the health care facility.

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

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

8 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
9 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-277, eff. 1-1-12;  
10 revised 9-7-11.)

11 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

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

13 Sec. 13. Investigation of applications for permits and  
14 certificates of recognition. The Agency or the State Board  
15 shall make or cause to be made such investigations as it or the  
16 State Board deems necessary in connection with an application  
17 for a permit or an application for a certificate of  
18 recognition, or in connection with a determination of whether  
19 or not construction or modification which has been commenced is  
20 in accord with the permit issued by the State Board or whether  
21 construction or modification has been commenced without a  
22 permit having been obtained. The State Board may issue  
23 subpoenas duces tecum requiring the production of records and  
24 may administer oaths to such witnesses.

25 Any circuit court of this State, upon the application of

1 the State Board or upon the application of any party to such  
2 proceedings, may, in its discretion, compel the attendance of  
3 witnesses, the production of books, papers, records, or  
4 memoranda and the giving of testimony before the State Board,  
5 by a proceeding as for contempt, or otherwise, in the same  
6 manner as production of evidence may be compelled before the  
7 court.

8 The State Board shall require all health facilities  
9 operating in this State to provide such reasonable reports at  
10 such times and containing such information as is needed by it  
11 to carry out the purposes and provisions of this Act. Prior to  
12 collecting information from health facilities, the State Board  
13 shall make reasonable efforts through a public process to  
14 consult with health facilities and associations that represent  
15 them to determine whether data and information requests will  
16 result in useful information for health planning, whether  
17 sufficient information is available from other sources, and  
18 whether data requested is routinely collected by health  
19 facilities and is available without retrospective record  
20 review. Data and information requests shall not impose undue  
21 paperwork burdens on health care facilities and personnel.  
22 Health facilities not complying with this requirement shall be  
23 reported to licensing, accrediting, certifying, or payment  
24 agencies as being in violation of State law. Health care  
25 facilities and other parties at interest shall have reasonable  
26 access, under rules established by the State Board, to all

1 planning information submitted in accord with this Act  
2 pertaining to their area.

3 Among the reports to be required by the State Board are  
4 facility questionnaires for health care facilities licensed  
5 under the Ambulatory Surgical Treatment Center Act, the  
6 Hospital Licensing Act, the Nursing Home Care Act, the ID/DD  
7 Community Care Act, the Specialized Mental Health  
8 Rehabilitation Act, or the End Stage Renal Disease Facility  
9 Act. These questionnaires shall be conducted on an annual basis  
10 and compiled by the Agency. For health care facilities licensed  
11 under the Nursing Home Care Act or ~~or~~ the Specialized Mental  
12 Health Rehabilitation Act, ~~or the ID/DD Community Care Act,~~  
13 these reports shall include, but not be limited to, the  
14 identification of specialty services provided by the facility  
15 to patients, residents, and the community at large. Annual  
16 reports for facilities licensed under the ID/DD Community Care  
17 Act shall be different from the annual reports required of  
18 other health care facilities and shall be specific to those  
19 facilities licensed under the ID/DD Community Care Act. The  
20 Health Facilities and Services Review Board shall consult with  
21 associations representing facilities licensed under the ID/DD  
22 Community Care Act when developing the information requested in  
23 these annual reports. For health care facilities that contain  
24 long term care beds, the reports shall also include the number  
25 of staffed long term care beds, physical capacity for long term  
26 care beds at the facility, and long term care beds available

1 for immediate occupancy. For purposes of this paragraph, "long  
2 term care beds" means beds (i) licensed under the Nursing Home  
3 Care Act, (ii) licensed under the ID/DD Community Care Act,  
4 (iii) licensed under the Hospital Licensing Act, or (iv)  
5 licensed under the Specialized Mental Health Rehabilitation  
6 Act and certified as skilled nursing or nursing facility beds  
7 under Medicaid or Medicare.

8 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,  
9 eff. 1-1-12; revised 9-7-11.)

10 (20 ILCS 3960/14.1)

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

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

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

19 (2) The establishment, construction, or modification  
20 of a health care facility without a permit or in violation  
21 of the terms of a permit.

22 (3) The violation of any provision of this Act or any  
23 rule adopted under this Act.

24 (4) The failure, by any person subject to this Act, to  
25 provide information requested by the State Board or Agency

1           within 30 days after a formal written request for the  
2           information.

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

5           (a-5) For facilities licensed under the ID/DD Community  
6           Care Act, no permit shall be denied on the basis of prior  
7           operator history, other than for actions specified under item  
8           (2), (4), or (5) of Section 3-117 of the ID/DD Community Care  
9           Act. For facilities licensed under the Specialized Mental  
10          Health Rehabilitation Act, no permit shall be denied on the  
11          basis of prior operator history, other than for actions  
12          specified under item (2), (4), or (5) of Section 3-117 of the  
13          Specialized Mental Health Rehabilitation Act. For facilities  
14          licensed under the Nursing Home Care Act, no permit shall be  
15          denied on the basis of prior operator history, other than for:  
16          (i) actions specified under item (2), (3), (4), (5), or (6) of  
17          Section 3-117 of the Nursing Home Care Act; (ii) actions  
18          specified under item (a)(6) of Section 3-119 of the Nursing  
19          Home Care Act; or (iii) actions within the preceding 5 years  
20          constituting a substantial and repeated failure to comply with  
21          the Nursing Home Care Act or the rules and regulations adopted  
22          by the Department under that Act. The State Board shall not  
23          deny a permit on account of any action described in this  
24          subsection (a-5) without also considering all such actions in  
25          the light of all relevant information available to the State  
26          Board, including whether the permit is sought to substantially



1 comply with a mandatory or voluntary plan of correction  
2 associated with any action described in this subsection (a-5).

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

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

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

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

26 (4) A person who constructs, modifies, or establishes a

1 health care facility without first obtaining a permit shall  
2 be fined an amount not to exceed \$25,000 plus an additional  
3 \$25,000 for each 30-day period, or fraction thereof, that  
4 the violation continues.

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

24 (6) A person subject to this Act who fails to provide  
25 information requested by the State Board or Agency within  
26 30 days of a formal written request shall be fined an

1 amount not to exceed \$1,000 plus an additional \$1,000 for  
2 each 30-day period, or fraction thereof, that the  
3 information is not received by the State Board or Agency.

4 (c) Before imposing any fine authorized under this Section,  
5 the State Board shall afford the person or permit holder, as  
6 the case may be, an appearance before the State Board and an  
7 opportunity for a hearing before a hearing officer appointed by  
8 the State Board. The hearing shall be conducted in accordance  
9 with Section 10.

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

13 (Source: P.A. 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10;  
14 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-7-11.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law."