

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7 (Section scheduled to be repealed on December 31, 2029)

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 or the MC/DD
7 Act. No permit or exemption is required for a facility
8 licensed under the ID/DD Community Care Act or the MC/DD
9 Act prior to the reduction of the number of beds at a
10 facility. If there is a total reduction of beds at a
11 facility licensed under the ID/DD Community Care Act or
12 the MC/DD Act, this is a discontinuation or closure of the
13 facility. If a facility licensed under the ID/DD Community
14 Care Act or the MC/DD Act reduces the number of beds or
15 discontinues the facility, that facility must notify the
16 Board as provided in Section 14.1 of this Act.

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

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

23 (5) Kidney disease treatment centers, including a
24 free-standing hemodialysis unit required to meet the
25 requirements of 42 CFR 494 in order to be certified for
26 participation in Medicare and Medicaid under Titles XVIII

1 and XIX of the federal Social Security Act.

2 (A) This Act does not apply to a dialysis facility
3 that provides only dialysis training, support, and
4 related services to individuals with end stage renal
5 disease who have elected to receive home dialysis.

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

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

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

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

25 (8) An institution, place, building, or room housing
26 major medical equipment used in the direct clinical

1 diagnosis or treatment of patients, and whose project cost
2 is in excess of the capital expenditure minimum.

3 "Health care facilities" does not include the following
4 entities or facility transactions:

5 (1) Federally-owned facilities.

6 (2) Facilities used solely for healing by prayer or
7 spiritual means.

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

14 (4) Facilities licensed under the Supportive
15 Residences Licensing Act or the Assisted Living and Shared
16 Housing Act.

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

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

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

13 (8) Any change of ownership of a health care facility
14 that is licensed under the Nursing Home Care Act, the
15 Specialized Mental Health Rehabilitation Act of 2013, the
16 ID/DD Community Care Act, or the MC/DD Act, with the
17 exception of facilities operated by a county or Illinois
18 Veterans Homes. Changes of ownership of facilities
19 licensed under the Nursing Home Care Act must meet the
20 requirements set forth in Sections 3-101 through 3-119 of
21 the Nursing Home Care Act.

22 (9) (Blank).

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, unless the entity constructs, modifies,
13 or establishes a health care facility as specifically defined
14 in this Section. This Act shall apply to construction or
15 modification and to establishment by such health care facility
16 of such contracted portion which is subject to facility
17 licensing requirements, irrespective of the party responsible
18 for such action or attendant financial obligation.

19 "Person" means any one or more natural persons, legal
20 entities, governmental bodies other than federal, or any
21 combination thereof.

22 "Consumer" means any person other than a person (a) whose
23 major occupation currently involves or whose official capacity
24 within the last 12 months has involved the providing,
25 administering or financing of any type of health care
26 facility, (b) who is engaged in health research or the

1 teaching of health, (c) who has a material financial interest
2 in any activity which involves the providing, administering or
3 financing of any type of health care facility, or (d) who is or
4 ever has been a member of the immediate family of the person
5 defined by item (a), (b), or (c).

6 "State Board" or "Board" means the Health Facilities and
7 Services Review Board.

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

23 "Establish" means the construction of a health care
24 facility or the replacement of an existing facility on another
25 site or the initiation of a category of service.

26 "Major medical equipment" means medical equipment which is

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

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

23 For the purpose of this paragraph, the cost of any
24 studies, surveys, designs, plans, working drawings,
25 specifications, and other activities essential to the
26 acquisition, improvement, expansion, or replacement of any

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

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

24 "Financial commitment" means the commitment of at least
25 33% of total funds assigned to cover total project cost, which
26 occurs by the actual expenditure of 33% or more of the total

1 project cost or the commitment to expend 33% or more of the
2 total project cost by signed contracts or other legal means.

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

1 components to a clinical area.

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

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

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

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

18 "Director" means the Director of the Illinois Department
19 of Public Health.

20 "Agency" or "Department" means the Illinois Department of
21 Public Health.

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

25 "Out-of-state facility" means a person that is both (i)
26 licensed as a hospital or as an ambulatory surgery center

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

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

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

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

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

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

20 "State Board Staff Report" means the document that sets
21 forth the review and findings of the State Board staff, as
22 prescribed by the State Board, regarding applications subject
23 to Board jurisdiction.

24 "Patient care unit" means a physically identifiable and
25 organized unit in a clearly defined administrative and
26 geographic area that meets applicable standards of service in

1 which nursing care and therapeutic services are provided on a
2 continuous basis and to which specific nursing and support
3 staff are assigned. "Patient care unit" does not include
4 education spaces, consultation and touchdown rooms, and
5 on-call rooms that are not required by Department licensing
6 standards.

7 "Provider" includes, but is not limited to, a hospital,
8 long-term care facility, end-stage renal dialysis facility,
9 ambulatory surgical treatment center, freestanding emergency
10 center, or birth center.

11 (Source: P.A. 100-518, eff. 6-1-18; 100-581, eff. 3-12-18;
12 100-957, eff. 8-19-18; 101-81, eff. 7-12-19; 101-650, eff.
13 7-7-20.)