



Sen. Omar Aquino

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10400SB0798sam002

LRB104 07201 SPS 25802 a

1 AMENDMENT TO SENATE BILL 798

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 798 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 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7 (Section scheduled to be repealed on December 31, 2029)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.

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

3           (A) If a demonstration project under the Nursing  
4 Home Care Act applies for a certificate of need to  
5 convert to a nursing facility, it shall meet the  
6 licensure and certificate of need requirements in  
7 effect as of the date of application.

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

12           (3.5) Skilled and intermediate care facilities  
13 licensed under the ID/DD Community Care Act or the MC/DD  
14 Act. No permit or exemption is required for a facility  
15 licensed under the ID/DD Community Care Act or the MC/DD  
16 Act prior to the reduction of the number of beds at a  
17 facility. If there is a total reduction of beds at a  
18 facility licensed under the ID/DD Community Care Act or  
19 the MC/DD Act, this is a discontinuation or closure of the  
20 facility. If a facility licensed under the ID/DD Community  
21 Care Act or the MC/DD Act reduces the number of beds or  
22 discontinues the facility, that facility must notify the  
23 Board as provided in Section 14.1 of this Act.

24           (3.7) Facilities licensed under the Specialized Mental  
25 Health Rehabilitation Act of 2013.

26           (4) Hospitals, nursing homes, ambulatory surgical

1 treatment centers, or kidney disease treatment centers  
2 maintained by the State or any department or agency  
3 thereof.

4 (5) Kidney disease treatment centers, including a  
5 free-standing hemodialysis unit required to meet the  
6 requirements of 42 CFR 494 in order to be certified for  
7 participation in Medicare and Medicaid under Titles XVIII  
8 and XIX of the federal Social Security Act.

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

13 (B) This Act does not apply to a dialysis unit  
14 located in a licensed nursing home that offers or  
15 provides dialysis-related services to residents with  
16 end stage renal disease who have elected to receive  
17 home dialysis within the nursing home.

18 (C) The Board, however, may require dialysis  
19 facilities and licensed nursing homes under items (A)  
20 and (B) of this subsection to report statistical  
21 information on a quarterly basis to the Board to be  
22 used by the Board to conduct analyses on the need for  
23 proposed kidney disease treatment centers.

24 (6) An institution, place, building, or room used for  
25 the performance of outpatient surgical procedures that is  
26 leased, owned, or operated by or on behalf of an

1 out-of-state facility.

2 (7) An institution, place, building, or room used for  
3 provision of a health care category of service, including,  
4 but not limited to, cardiac catheterization and open heart  
5 surgery.

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

10 "Health care facilities" does not include the following  
11 entities or facility transactions:

12 (1) Federally-owned facilities.

13 (2) Facilities used solely for healing by prayer or  
14 spiritual means.

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

21 (4) Facilities licensed under the Supportive  
22 Residences Licensing Act or the Assisted Living and Shared  
23 Housing Act.

24 (5) Facilities designated as supportive living  
25 facilities that are in good standing with the program  
26 established under Section 5-5.01a of the Illinois Public

1 Aid Code.

2 (6) Facilities established and operating under the  
3 Alternative Health Care Delivery Act as a children's  
4 community-based health care center alternative health care  
5 model demonstration program or as an Alzheimer's Disease  
6 Management Center alternative health care model  
7 demonstration program.

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

20 (8) Any change of ownership of a health care facility  
21 that is licensed under the Nursing Home Care Act, the  
22 Specialized Mental Health Rehabilitation Act of 2013, the  
23 ID/DD Community Care Act, or the MC/DD Act, with the  
24 exception of facilities operated by a county or Illinois  
25 Veterans Homes. Changes of ownership of facilities  
26 licensed under the Nursing Home Care Act must meet the

1 requirements set forth in Sections 3-101 through 3-119 of  
2 the Nursing Home Care Act.

3 (9) (Blank).

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

26 "Person" means any one or more natural persons, legal

1 entities, governmental bodies other than federal, or any  
2 combination thereof.

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

13 "State Board" or "Board" means the Health Facilities and  
14 Services Review Board.

15 "Construction or modification" means the establishment,  
16 erection, building, alteration, reconstruction,  
17 modernization, improvement, extension, discontinuation,  
18 change of ownership, of or by a health care facility, or the  
19 purchase or acquisition by or through a health care facility  
20 of equipment or service for diagnostic or therapeutic purposes  
21 or for facility administration or operation, or any capital  
22 expenditure made by or on behalf of a health care facility  
23 which exceeds the capital expenditure minimum; however, any  
24 capital expenditure made by or on behalf of a health care  
25 facility for (i) the construction or modification of a  
26 facility licensed under the Assisted Living and Shared Housing

1 Act or (ii) a conversion project undertaken in accordance with  
2 Section 30 of the Older Adult Services Act shall be excluded  
3 from any obligations under this Act.

4 "Establish" means the construction of a health care  
5 facility or the replacement of an existing facility on another  
6 site or the initiation of a category of service.

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

22 "Capital expenditure" means an expenditure: (A) made by or  
23 on behalf of a health care facility (as such a facility is  
24 defined in this Act); and (B) which under generally accepted  
25 accounting principles is not properly chargeable as an expense  
26 of operation and maintenance, or is made to obtain by lease or

1 comparable arrangement any facility or part thereof or any  
2 equipment for a facility or part; and which exceeds the  
3 capital expenditure minimum.

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

23 "Capital expenditure minimum" means \$11,500,000 for  
24 projects by hospital applicants, \$6,500,000 for applicants for  
25 projects related to skilled and intermediate care long-term  
26 care facilities licensed under the Nursing Home Care Act, and

1 \$3,000,000 for projects by all other applicants, which shall  
2 be annually adjusted to reflect the increase in construction  
3 costs due to inflation, for major medical equipment and for  
4 all other capital expenditures.

5 "Financial commitment" means the commitment of at least  
6 33% of total funds assigned to cover total project cost, which  
7 occurs by the actual expenditure of 33% or more of the total  
8 project cost or the commitment to expend 33% or more of the  
9 total project cost by signed contracts or other legal means.

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

1 or replacement of carpeting, tile, wall coverings, window  
2 coverings or treatments, or furniture. "Non-clinical service  
3 area" ~~Soeley for the purpose of this definition, "non-clinical~~  
4 ~~service area"~~ does not include health and fitness centers,  
5 areas in a patient care unit, or areas that are required by  
6 Department licensing standards, including life safety code  
7 regulations, such as hallways and other interdependent  
8 components to a clinical area.

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

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

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

22 "Licensed health care professional" means a person  
23 licensed to practice a health profession under pertinent  
24 licensing statutes of the State of Illinois.

25 "Director" means the Director of the Illinois Department  
26 of Public Health.

1 "Agency" or "Department" means the Illinois Department of  
2 Public Health.

3 "Alternative health care model" means a facility or  
4 program authorized under the Alternative Health Care Delivery  
5 Act.

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

23 "Change of ownership of a health care facility" means a  
24 change in the person who has ownership or control of a health  
25 care facility's physical plant and capital assets. A change in  
26 ownership is indicated by the following transactions: sale,

1 transfer, acquisition, lease, change of sponsorship, or other  
2 means of transferring control.

3 "Related person" means any person that: (i) is at least  
4 50% owned, directly or indirectly, by either the health care  
5 facility or a person owning, directly or indirectly, at least  
6 50% of the health care facility; or (ii) owns, directly or  
7 indirectly, at least 50% of the health care facility.

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

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

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

1 "State Board Staff Report" means the document that sets  
2 forth the review and findings of the State Board staff, as  
3 prescribed by the State Board, regarding applications subject  
4 to Board jurisdiction.

5 "Patient care unit" means a physically identifiable and  
6 organized unit in a clearly defined administrative and  
7 geographic area that meets applicable standards of service in  
8 which nursing care and therapeutic services are provided on a  
9 continuous basis and to which specific nursing and support  
10 staff are assigned. "Patient care unit" does not include  
11 education spaces, consultation and touchdown rooms, and  
12 on-call rooms that are not required by Department licensing  
13 standards.

14 "Provider" includes, but is not limited to, a hospital,  
15 long-term care facility, end-stage renal dialysis facility,  
16 ambulatory surgical treatment center, freestanding emergency  
17 center, or birth center.

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