



Sen. Carol Ronen

Filed: 5/6/2004

09300HB1086sam001

LRB093 05461 AMC 50629 a

1 AMENDMENT TO HOUSE BILL 1086

2 AMENDMENT NO. _____. Amend House Bill 1086 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 and by adding Section 8.5 as
6 follows:

7 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

8 (Section scheduled to be repealed on July 1, 2008)

9 Sec. 3. Definitions. As used in this Act:

10 "Health care facilities" means and includes the following
11 facilities and organizations:

12 1. An ambulatory surgical treatment center required to
13 be licensed pursuant to the Ambulatory Surgical Treatment
14 Center Act;

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

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

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; and

1 6. An institution, place, building, or room used for
2 the performance of outpatient surgical procedures that is
3 leased, owned, or operated by or on behalf of an
4 out-of-state facility.

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

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

11 A facility designated as a supportive living facility that
12 is in good standing with the demonstration project established
13 under Section 5-5.01a of the Illinois Public Aid Code shall not
14 be subject to the provisions of this Act.

15 This Act does not apply to facilities granted waivers under
16 Section 3-102.2 of the Nursing Home Care Act. However, if a
17 demonstration project under that Act applies for a certificate
18 of need to convert to a nursing facility, it shall meet the
19 licensure and certificate of need requirements in effect as of
20 the date of application.

21 This Act shall not apply to the closure of an entity or a
22 portion of an entity licensed under the Nursing Home Care Act
23 that elects to convert, in whole or in part, to an assisted
24 living or shared housing establishment licensed under the
25 Assisted Living and Shared Housing Act.

26 With the exception of those health care facilities
27 specifically included in this Section, nothing in this Act
28 shall be intended to include facilities operated as a part of
29 the practice of a physician or other licensed health care
30 professional, whether practicing in his individual capacity or
31 within the legal structure of any partnership, medical or
32 professional corporation, or unincorporated medical or
33 professional group. Further, this Act shall not apply to
34 physicians or other licensed health care professional's

1 practices where such practices are carried out in a portion of
2 a health care facility under contract with such health care
3 facility by a physician or by other licensed health care
4 professionals, whether practicing in his individual capacity
5 or within the legal structure of any partnership, medical or
6 professional corporation, or unincorporated medical or
7 professional groups. This Act shall apply to construction or
8 modification and to establishment by such health care facility
9 of such contracted portion which is subject to facility
10 licensing requirements, irrespective of the party responsible
11 for such action or attendant financial obligation.

12 "Person" means any one or more natural persons, legal
13 entities, governmental bodies other than federal, or any
14 combination thereof.

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

25 "State Board" means the Health Facilities Planning Board.

26 "Construction or modification" means the establishment,
27 erection, building, alteration, reconstruction, modernization,
28 improvement, extension, discontinuation, change of ownership,
29 of or by a health care facility, or the purchase or acquisition
30 by or through a health care facility of equipment or service
31 for diagnostic or therapeutic purposes or for facility
32 administration or operation, or any capital expenditure made by
33 or on behalf of a health care facility which exceeds the
34 capital expenditure minimum; however, any capital expenditure

1 made by or on behalf of a health care facility for the
2 construction or modification of a facility licensed under the
3 Assisted Living and Shared Housing Act shall be excluded from
4 any obligations under this Act.

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

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

30 For the purpose of this paragraph, the cost of any studies,
31 surveys, designs, plans, working drawings, specifications, and
32 other activities essential to the acquisition, improvement,
33 expansion, or replacement of any plant or equipment with
34 respect to which an expenditure is made shall be included in

1 determining if such expenditure exceeds the capital
2 expenditures minimum. Donations of equipment or facilities to a
3 health care facility which if acquired directly by such
4 facility would be subject to review under this Act shall be
5 considered capital expenditures, and a transfer of equipment or
6 facilities for less than fair market value shall be considered
7 a capital expenditure for purposes of this Act if a transfer of
8 the equipment or facilities at fair market value would be
9 subject to review.

10 "Capital expenditure minimum" means \$6,000,000, which
11 shall be annually adjusted to reflect the increase in
12 construction costs due to inflation, for major medical
13 equipment and for all other capital expenditures; provided,
14 however, that when a capital expenditure is for the
15 construction or modification of a health and fitness center,
16 "capital expenditure minimum" means the capital expenditure
17 minimum for all other capital expenditures in effect on March
18 1, 2000, which shall be annually adjusted to reflect the
19 increase in construction costs due to inflation.

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

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

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

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

15 "Areawide health planning organization" or "Comprehensive
16 health planning organization" means the health systems agency
17 designated by the Secretary, Department of Health and Human
18 Services or any successor agency.

19 "Local health planning organization" means those local
20 health planning organizations that are designated as such by
21 the areawide health planning organization of the appropriate
22 area.

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

25 "Licensed health care professional" means a person
26 licensed to practice a health profession under pertinent
27 licensing statutes of the State of Illinois.

28 "Director" means the Director of the Illinois Department of
29 Public Health.

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

31 "Comprehensive health planning" means health planning
32 concerned with the total population and all health and
33 associated problems that affect the well-being of people and
34 that encompasses health services, health manpower, and health

1 facilities; and the coordination among these and with those
2 social, economic, and environmental factors that affect
3 health.

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

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

29 "Related person" means any person that: (i) is at least 50%
30 owned, directly or indirectly, by either the health care
31 facility or a person owning, directly or indirectly, at least
32 50% of the health care facility; or (ii) owns, directly or
33 indirectly, at least 50% of the health care facility.

34 "Charity care" means care provided by a health care

1 facility for which the provider does not expect to receive
2 payment from the patient or a third-party payer.

3 (Source: P.A. 93-41, eff. 6-27-03.)

4 (20 ILCS 3960/8.5 new)

5 Sec. 8.5. Certificate of exemption for change of ownership
6 of a health care facility; public notice and public hearing.

7 (a) Upon a finding by the Department of Public Health that
8 an application for a change of ownership is complete, the
9 Department of Public Health shall publish a legal notice on 3
10 consecutive days in a newspaper of general circulation in the
11 area or community to be affected and afford the public an
12 opportunity to request a hearing. If the application is for a
13 facility located in a Metropolitan Statistical Area, an
14 additional legal notice shall be published in a newspaper of
15 limited circulation, if one exists, in the area in which the
16 facility is located. If the newspaper of limited circulation is
17 published on a daily basis, the additional legal notice shall
18 be published on 3 consecutive days. The legal notice shall also
19 be posted on the Illinois Health Facilities Planning Board's
20 web site and sent to the State Representative and State Senator
21 of the district in which the health care facility is located.
22 The Department of Public Health shall not find that an
23 application for change of ownership of a hospital is complete
24 without a signed certification that for a period of 2 years
25 after the change of ownership transaction is effective, the
26 hospital will not adopt a charity care policy that is more
27 restrictive than the policy in effect during the year prior to
28 the transaction.

29 For the purposes of this subsection, "newspaper of limited
30 circulation" means a newspaper intended to serve a particular
31 or defined population of a specific geographic area within a
32 Metropolitan Statistical Area such as a municipality, town,
33 village, township, or community area, but does not include

1 publications of professional and trade associations.

2 (b) If a public hearing is requested, it shall be held at
3 least 15 days but no more than 30 days after the date of
4 publication of the legal notice in the community in which the
5 facility is located. The hearing shall be held in a place of
6 reasonable size and accessibility and a full and complete
7 written transcript of the proceedings shall be made. The
8 applicant shall provide a summary of the proposed change of
9 ownership for distribution at the public hearing."