

1 AN ACT concerning health facilities.

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7 (Section scheduled to be repealed on July 1, 2008)

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
17 licensed under the Nursing Home Care Act;

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19 licensed under the Nursing Home Care Act;

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

24 5. Kidney disease treatment centers, including a
25 free-standing hemodialysis unit required to be licensed
26 under the End Stage Renal Disease Facility Act; and

27 6. An institution, place, building, or room used for
28 the performance of outpatient surgical procedures that is
29 leased, owned, or operated by or on behalf of an
30 out-of-state facility.

31 No federally owned facility shall be subject to the
32 provisions of this Act, nor facilities used solely for healing

1 by prayer or spiritual means.

2 No facility licensed under the Supportive Residences
3 Licensing Act or the Assisted Living and Shared Housing Act
4 shall be subject to the provisions of this Act.

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

9 This Act does not apply to facilities granted waivers under
10 Section 3-102.2 of the Nursing Home Care Act. However, if a
11 demonstration project under that Act applies for a certificate
12 of need to convert to a nursing facility, it shall meet the
13 licensure and certificate of need requirements in effect as of
14 the date of application.

15 This Act does not apply to a dialysis facility that
16 provides only dialysis training, support, and related services
17 to individuals with end stage renal disease who have elected to
18 receive home dialysis. This Act does not apply to a dialysis
19 unit located in a licensed nursing home that offers or provides
20 dialysis-related services to residents with end stage renal
21 disease who have elected to receive home dialysis within the
22 nursing home. The Board, however, may require these dialysis
23 facilities and licensed nursing homes to report statistical
24 information on a quarterly basis to the Board to be used by the
25 Board to conduct analyses on the need for proposed kidney
26 disease treatment centers.

27 This Act shall not apply to the closure of an entity or a
28 portion of an entity licensed under the Nursing Home Care Act
29 that elects to convert, in whole or in part, to an assisted
30 living or shared housing establishment licensed under the
31 Assisted Living and Shared Housing Act.

32 With the exception of those health care facilities
33 specifically included in this Section, nothing in this Act
34 shall be intended to include facilities operated as a part of
35 the practice of a physician or other licensed health care
36 professional, whether practicing in his individual capacity or

1 within the legal structure of any partnership, medical or
2 professional corporation, or unincorporated medical or
3 professional group. Further, this Act shall not apply to
4 physicians or other licensed health care professional's
5 practices where such practices are carried out in a portion of
6 a health care facility under contract with such health care
7 facility by a physician or by other licensed health care
8 professionals, whether practicing in his individual capacity
9 or within the legal structure of any partnership, medical or
10 professional corporation, or unincorporated medical or
11 professional groups. This Act shall apply to construction or
12 modification and to establishment by such health care facility
13 of such contracted portion which is subject to facility
14 licensing requirements, irrespective of the party responsible
15 for such action or attendant financial obligation.

16 "Person" means any one or more natural persons, legal
17 entities, governmental bodies other than federal, or any
18 combination thereof.

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

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

30 "Construction or modification" means the establishment,
31 erection, building, alteration, reconstruction, modernization,
32 improvement, extension, discontinuation, change of ownership,
33 of or by a health care facility, or the purchase or acquisition
34 by or through a health care facility of equipment or service
35 for diagnostic or therapeutic purposes or for facility
36 administration or operation, or any capital expenditure made by

1 or on behalf of a health care facility which exceeds the
2 capital expenditure minimum; however, any capital expenditure
3 made by or on behalf of a health care facility for the
4 construction or modification of a facility licensed under the
5 Assisted Living and Shared Housing Act shall be excluded from
6 any obligations under this Act.

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

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

24 "Capital Expenditure" means an expenditure: (A) made by or
25 on behalf of a health care facility (as such a facility is
26 defined in this Act); and (B) which under generally accepted
27 accounting principles is not properly chargeable as an expense
28 of operation and maintenance, or is made to obtain by lease or
29 comparable arrangement any facility or part thereof or any
30 equipment for a facility or part; and which exceeds the capital
31 expenditure minimum.

32 For the purpose of this paragraph, the cost of any studies,
33 surveys, designs, plans, working drawings, specifications, and
34 other activities essential to the acquisition, improvement,
35 expansion, or replacement of any plant or equipment with
36 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
35 repair or replacement of carpeting, tile, wall coverings,
36 window coverings or treatments, or furniture. Solely for the

1 purpose of this definition, "non-clinical service area" does
2 not include health and fitness centers.

3 "Areawide" means a major area of the State delineated on a
4 geographic, demographic, and functional basis for health
5 planning and for health service and having within it one or
6 more local areas for health planning and health service. The
7 term "region", as contrasted with the term "subregion", and the
8 word "area" may be used synonymously with the term "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 "Areawide health planning organization" or "Comprehensive
14 health planning organization" means the health systems agency
15 designated by the Secretary, Department of Health and Human
16 Services or any successor agency.

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

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

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

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

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

29 "Comprehensive health planning" means health planning
30 concerned with the total population and all health and
31 associated problems that affect the well-being of people and
32 that encompasses health services, health manpower, and health
33 facilities; and the coordination among these and with those
34 social, economic, and environmental factors that affect
35 health.

36 "Alternative health care model" means a facility or program

1 authorized under the Alternative Health Care Delivery Act.

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

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

25 "Related person" means any person that: (i) is at least 50%
26 owned, directly or indirectly, by either the health care
27 facility or a person owning, directly or indirectly, at least
28 50% of the health care facility; or (ii) owns, directly or
29 indirectly, at least 50% of the health care facility.

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

31 Section 10. The End Stage Renal Disease Facility Act is
32 amended by changing Sections 10 and 20 as follows:

33 (210 ILCS 62/10)

34 Sec. 10. License required. Except as provided by this Act,

1 no person shall open, manage, conduct, offer, maintain, or
2 advertise an end stage renal disease facility without a valid
3 license issued by the Department.

4 Each ESRDF, including those that provide only training
5 services, may oversee remote station facilities for home
6 dialysis patients in licensed nursing homes under the ESRDF's
7 license. These remote station facilities are not required to
8 obtain a separate license under this Act, but shall be
9 inspected under Department rules as remote stations of the
10 ESRDF.

11 Notwithstanding any other provisions of this Section, all
12 end stage renal disease facilities in existence as of the
13 effective date of rules adopted by the Department to implement
14 this Act (the "Implementation Date") may continue to operate
15 but must ~~this Act shall~~ obtain a valid license to operate
16 within one year after the Implementation Date ~~adoption of rules~~
17 ~~to implement this Act.~~

18 (Source: P.A. 92-794, eff. 7-1-03.)

19 (210 ILCS 62/20)

20 Sec. 20. Issuance and renewal of license.

21 (a) An applicant for a license under this Act shall submit
22 an application on forms prescribed by the Department.

23 (b) Each application shall be accompanied by a
24 non-refundable license fee, as established by rule of the
25 Department.

26 (c) Each application shall contain evidence that there is
27 at least one physician responsible for the medical direction of
28 the facility and that each dialysis technician on staff has
29 completed a training program as required by this Act.

30 (d) The Department may grant a temporary initial license to
31 an applicant. A temporary initial license expires on the
32 earlier of (i) the date the Department issues or denies the
33 license or (ii) the date 6 months after the temporary initial
34 license was issued. The Department may issue subsequent
35 temporary licenses when necessary.

1 (e) The Department shall issue a license if, after
2 application, inspection, and investigation, it finds the
3 applicant meets the requirements of this Act and the standards
4 adopted pursuant to this Act. The Department may include
5 participation as a supplier of end stage renal disease services
6 under Titles XVIII and XIX of the federal Social Security Act
7 as a condition of licensure. The Department may consider
8 facilities and remote stations certified under Titles XVIII and
9 XIX of the federal Social Security Act as meeting the licensure
10 requirements under this Section.

11 (f) The license is renewable annually after submission of
12 (i) the renewal application and fee and (ii) an annual report
13 on a form prescribed by the Department that includes
14 information related to quality of care at the end stage renal
15 disease facility. The report must be in the form and documented
16 by evidence as required by Department rule.

17 (Source: P.A. 92-794, eff. 7-1-03.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.