

SB1581



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1581

Introduced 2/9/2007, by Sen. Susan Garrett

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3
20 ILCS 3960/19.6

from Ch. 111 1/2, par. 1153

Amends the Health Facilities Planning Act. Provides that the term "health care facilities" includes (i) an institution, place, building or room that is used for the delivery of health care and exceeds the capital expenditure minimum, and (ii) certain diagnostic imaging centers. Extends the repeal of the Act to July 1, 2012 (now, April 1, 2007). Effective immediately.

LRB095 11034 HLH 31353 b

A BILL FOR

1 AN ACT concerning health care.

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 Sections 3 and 19.6 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Section scheduled to be repealed on April 1, 2007)

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;

18 ~~3. Skilled and intermediate long term care facilities~~
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;

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

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

8 7. An institution, place, building, or room that is
9 used for the delivery of health care and exceeds the
10 capital expenditure minimum; and

11 8. Freestanding diagnostic imaging centers that are
12 not located in or on the premises of an institution, place,
13 building, or agency required to be licensed pursuant to the
14 Hospital Licensing Act.

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

18 No facility licensed under the Supportive Residences
19 Licensing Act or the Assisted Living and Shared Housing Act
20 shall be subject to the provisions of this Act.

21 A facility designated as a supportive living facility that
22 is in good standing with the program established under Section
23 5-5.01a of the Illinois Public Aid Code shall not be subject to
24 the provisions of this Act.

25 This Act does not apply to facilities granted waivers under
26 Section 3-102.2 of the Nursing Home Care Act. However, if a

1 demonstration project under that Act applies for a certificate
2 of need to convert to a nursing facility, it shall meet the
3 licensure and certificate of need requirements in effect as of
4 the date of application.

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

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

22 With the exception of those health care facilities
23 specifically included in this Section, nothing in this Act
24 shall be intended to include facilities operated as a part of
25 the practice of a physician or other licensed health care
26 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

1 ever has been a member of the immediate family of the person
2 defined by (a), (b), or (c).

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

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

19 "Establish" means the construction of a health care
20 facility or the replacement of an existing facility on another
21 site.

22 "Freestanding diagnostic imaging center" is a facility, or
23 part of a facility, at which sophisticated radiological
24 services are provided, which, as defined by the State Board by
25 rule, shall include, but not be limited to, magnetic resonance
26 imaging, nuclear medicine, computerized axial tomography, or

1 positron emission tomography. Sophisticated radiological
2 services do not include routine X-ray, mammography, or
3 ultrasound services.

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

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

26 For the purpose of this paragraph, the cost of any studies,

1 surveys, designs, plans, working drawings, specifications, and
2 other activities essential to the acquisition, improvement,
3 expansion, or replacement of any plant or equipment with
4 respect to which an expenditure is made shall be included in
5 determining if such expenditure exceeds the capital
6 expenditures minimum. Donations of equipment or facilities to a
7 health care facility which if acquired directly by such
8 facility would be subject to review under this Act shall be
9 considered capital expenditures, and a transfer of equipment or
10 facilities for less than fair market value shall be considered
11 a capital expenditure for purposes of this Act if a transfer of
12 the equipment or facilities at fair market value would be
13 subject to review.

14 "Capital expenditure minimum" means \$6,000,000, which
15 shall be annually adjusted to reflect the increase in
16 construction costs due to inflation, for major medical
17 equipment and for all other capital expenditures; provided,
18 however, that when a capital expenditure is for the
19 construction or modification of a health and fitness center,
20 "capital expenditure minimum" means the capital expenditure
21 minimum for all other capital expenditures in effect on March
22 1, 2000, which shall be annually adjusted to reflect the
23 increase in construction costs due to inflation.

24 "Non-clinical service area" means an area (i) for the
25 benefit of the patients, visitors, staff, or employees of a
26 health care facility and (ii) not directly related to the

1 diagnosis, treatment, or rehabilitation of persons receiving
2 services from the health care facility. "Non-clinical service
3 areas" include, but are not limited to, chapels; gift shops;
4 news stands; computer systems; tunnels, walkways, and
5 elevators; telephone systems; projects to comply with life
6 safety codes; educational facilities; student housing;
7 patient, employee, staff, and visitor dining areas;
8 administration and volunteer offices; modernization of
9 structural components (such as roof replacement and masonry
10 work); boiler repair or replacement; vehicle maintenance and
11 storage facilities; parking facilities; mechanical systems for
12 heating, ventilation, and air conditioning; loading docks; and
13 repair or replacement of carpeting, tile, wall coverings,
14 window coverings or treatments, or furniture. Solely for the
15 purpose of this definition, "non-clinical service area" does
16 not include health and fitness centers.

17 "Areawide" means a major area of the State delineated on a
18 geographic, demographic, and functional basis for health
19 planning and for health service and having within it one or
20 more local areas for health planning and health service. The
21 term "region", as contrasted with the term "subregion", and the
22 word "area" may be used synonymously with the term "areawide".

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

1 "Areawide health planning organization" or "Comprehensive
2 health planning organization" means the health systems agency
3 designated by the Secretary, Department of Health and Human
4 Services or any successor agency.

5 "Local health planning organization" means those local
6 health planning organizations that are designated as such by
7 the areawide health planning organization of the appropriate
8 area.

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

11 "Licensed health care professional" means a person
12 licensed to practice a health profession under pertinent
13 licensing statutes of the State of Illinois.

14 "Director" means the Director of the Illinois Department of
15 Public Health.

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

17 "Comprehensive health planning" means health planning
18 concerned with the total population and all health and
19 associated problems that affect the well-being of people and
20 that encompasses health services, health manpower, and health
21 facilities; and the coordination among these and with those
22 social, economic, and environmental factors that affect
23 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 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
6 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; 94-342, eff.
7 7-26-05; revised 8-21-06.)

8 (20 ILCS 3960/19.6)

9 (Section scheduled to be repealed on April 1, 2007)

10 Sec. 19.6. Repeal. This Act is repealed on July 1, 2012
11 ~~April 1, 2007~~.

12 (Source: P.A. 93-41, eff. 6-27-03; 93-889, eff. 8-9-04; 94-983,
13 eff. 6-30-06.)

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