

1 AN ACT concerning hospitals.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Hospital Licensing Act is amended by
5 changing Section 10.4 as follows:

6 (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

7 Sec. 10.4. Medical staff privileges.

8 (a) Any hospital licensed under this Act or any hospital
9 organized under the University of Illinois Hospital Act
10 shall, prior to the granting of any medical staff privileges
11 to an applicant, or renewing a current medical staff member's
12 privileges, request of the Director of Professional
13 Regulation information concerning the licensure status and
14 any disciplinary action taken against the applicant's or
15 medical staff member's license, except for medical personnel
16 who enter a hospital to obtain organs and tissues for
17 transplant from a deceased donor in accordance with the
18 Uniform Anatomical Gift Act. The Director of Professional
19 Regulation shall transmit, in writing and in a timely
20 fashion, such information regarding the license of the
21 applicant or the medical staff member, including the record
22 of imposition of any periods of supervision or monitoring as
23 a result of alcohol or substance abuse, as provided by
24 Section 23 of the Medical Practice Act of 1987, and such
25 information as may have been submitted to the Department
26 indicating that the application or medical staff member has
27 been denied, or has surrendered, medical staff privileges at
28 a hospital licensed under this Act, or any equivalent
29 facility in another state or territory of the United States.
30 The Director of Professional Regulation shall define by rule
31 the period for timely response to such requests.

1 No transmittal of information by the Director of
2 Professional Regulation, under this Section shall be to other
3 than the president, chief operating officer, chief
4 administrative officer, or chief of the medical staff of a
5 hospital licensed under this Act, a hospital organized under
6 the University of Illinois Hospital Act, or a hospital
7 operated by the United States, or any of its
8 instrumentalities. The information so transmitted shall be
9 afforded the same status as is information concerning medical
10 studies by Part 21 of Article VIII of the Code of Civil
11 Procedure, as now or hereafter amended.

12 (b) All hospitals licensed under this Act, except county
13 hospitals as defined in subsection (c) of Section 15-1 of the
14 Illinois Public Aid Code, shall comply with, and the medical
15 staff bylaws of these hospitals shall include rules
16 consistent with, the provisions of this Section in granting,
17 limiting, renewing, or denying medical staff membership and
18 clinical staff privileges. Hospitals that require medical
19 staff members to possess faculty status with a specific
20 institution of higher education are not required to comply
21 with subsection (1) below when the physician does not possess
22 faculty status.

23 (1) Minimum procedures for pre-applicants and
24 applicants for medical staff membership shall include the
25 following:

26 (A) Written procedures relating to the
27 acceptance and processing of pre-applicants or
28 applicants for medical staff membership, which
29 should be contained in medical staff bylaws.

30 (B) Written procedures to be followed in
31 determining a pre-applicant's or an applicant's
32 qualifications for being granted medical staff
33 membership and privileges.

34 (C) Written criteria to be followed in

1 evaluating a pre-applicant's or an applicant's
2 qualifications.

3 (D) An evaluation of a pre-applicant's or an
4 applicant's current health status and current
5 license status in Illinois.

6 (E) A written response to each pre-applicant
7 or applicant that explains the reason or reasons for
8 any adverse decision (including all reasons based in
9 whole or in part on the applicant's medical
10 qualifications or any other basis, including
11 economic factors).

12 (2) Minimum procedures with respect to medical
13 staff and clinical privilege determinations concerning
14 current members of the medical staff shall include the
15 following:

16 (A) A written notice of an adverse decision.

17 (B) An explanation of the reasons for an
18 adverse decision including all reasons based on the
19 quality of medical care or any other basis,
20 including economic factors.

21 (C) A statement of the medical staff member's
22 right to request a fair hearing on the adverse
23 decision before a hearing panel whose membership is
24 mutually agreed upon by the medical staff and the
25 hospital governing board. The hearing panel shall
26 have independent authority to recommend action to
27 the hospital governing board. Upon the request of
28 the medical staff member or the hospital governing
29 board, the hearing panel shall make findings
30 concerning the nature of each basis for any adverse
31 decision recommended to and accepted by the hospital
32 governing board.

33 (i) Nothing in this subparagraph (C)
34 limits a hospital's or medical staff's right to

1 summarily suspend, without a prior hearing, a
2 person's medical staff membership or clinical
3 privileges if the continuation of practice of a
4 medical staff member constitutes an immediate
5 danger to the public, including patients,
6 visitors, and hospital employees and staff. A
7 fair hearing shall be commenced within 15 days
8 after the suspension and completed without
9 delay.

10 (ii) Nothing in this subparagraph (C)
11 limits a medical staff's right to permit, in
12 the medical staff bylaws, summary suspension of
13 membership or clinical privileges in designated
14 administrative circumstances as specifically
15 approved by the medical staff. This bylaw
16 provision must specifically describe both the
17 administrative circumstance that can result in
18 a summary suspension and the length of the
19 summary suspension. The opportunity for a fair
20 hearing is required for any administrative
21 summary suspension. Any requested hearing must
22 be commenced within 15 days after the summary
23 suspension and completed without delay. Adverse
24 decisions other than suspension or other
25 restrictions on the treatment or admission of
26 patients may be imposed summarily and without a
27 hearing under designated administrative
28 circumstances as specifically provided for in
29 the medical staff bylaws as approved by the
30 medical staff.

31 (iii) If a hospital exercises its option
32 to enter into an exclusive contract and that
33 contract results in the total or partial
34 termination or reduction of medical staff

1 membership or clinical privileges of a current
2 medical staff member, the hospital shall
3 provide the affected medical staff member 60
4 days prior notice of the effect on his or her
5 medical staff membership or privileges. An
6 affected medical staff member desiring a
7 hearing under subparagraph (C) of this
8 paragraph (2) must request the hearing within
9 14 days after the date he or she is so
10 notified. The requested hearing shall be
11 commenced and completed (with a report and
12 recommendation to the affected medical staff
13 member, hospital governing board, and medical
14 staff) within 30 days after the date of the
15 medical staff member's request. If agreed upon
16 by both the medical staff and the hospital
17 governing board, the medical staff bylaws may
18 provide for longer time periods.

19 (D) A statement of the member's right to
20 inspect all pertinent information in the hospital's
21 possession with respect to the decision.

22 (E) A statement of the member's right to
23 present witnesses and other evidence at the hearing
24 on the decision.

25 (F) A written notice and written explanation
26 of the decision resulting from the hearing.

27 (F-5) A written notice of a final adverse
28 decision by a hospital governing board.

29 (G) Notice given 15 days before implementation
30 of an adverse medical staff membership or clinical
31 privileges decision based substantially on economic
32 factors. This notice shall be given after the
33 medical staff member exhausts all applicable
34 procedures under this Section, including item (iii)

1 of subparagraph (C) of this paragraph (2), and under
2 the medical staff bylaws in order to allow
3 sufficient time for the orderly provision of patient
4 care.

5 (H) Nothing in this paragraph (2) of this
6 subsection (b) limits a medical staff member's right
7 to waive, in writing, the rights provided in
8 subparagraphs (A) through (G) of this paragraph (2)
9 of this subsection (b) upon being granted the
10 written exclusive right to provide particular
11 services at a hospital, either individually or as a
12 member of a group. If an exclusive contract is
13 signed by a representative of a group of physicians,
14 a waiver contained in the contract shall apply to
15 all members of the group unless stated otherwise in
16 the contract.

17 (3) Every adverse medical staff membership and
18 clinical privilege decision based substantially on
19 economic factors shall be reported to the Hospital
20 Licensing Board before the decision takes effect. These
21 reports shall not be disclosed in any form that reveals
22 the identity of any hospital or physician. These reports
23 shall be utilized to study the effects that hospital
24 medical staff membership and clinical privilege decisions
25 based upon economic factors have on access to care and
26 the availability of physician services. The Hospital
27 Licensing Board shall submit an initial study to the
28 Governor and the General Assembly by January 1, 1996, and
29 subsequent reports shall be submitted periodically
30 thereafter.

31 (3.1) Each hospital shall provide a review mechanism
32 for the timely binding external independent review of an
33 adverse medical staff membership or clinical privilege
34 decision by the hospital under this Section or Section

1 10.8 of this Act. This mechanism shall be in the medical
2 staff bylaws. This review shall be conducted by one to 3
3 physicians with the same hospital privileges as the
4 medical staff member being reviewed who are independent,
5 as defined in paragraph (2) of subsection (a) of Section
6 10.8, and jointly selected by the medical staff member
7 subject to the adverse decision and the hospital. This
8 review shall be complete 10 days prior to any adverse
9 action becoming effective, except in circumstances where
10 the medical staff bylaws authorize summary suspension.
11 Both the hospital and the physician shall be provided
12 with a written copy of the decision. In the event that
13 the reviewing physicians determine the adverse decision
14 should be reversed, the hospital shall reverse the
15 decision. Future medical staff or clinical privilege
16 decisions or contract or employment actions by the
17 hospital or health system regarding the physician shall
18 not be based solely on the physician's participation in
19 this review.

20 (3.2) No hospital shall retaliate against a
21 physician who has exercised his or her right to a hearing
22 or binding external review or any other right under this
23 Section.

24 (3.3) A physician aggrieved by a violation of this
25 Act may seek to obtain an injunction or reinstatement
26 with the hospital or health system as the court may deem
27 appropriate. Nothing in this Section limits or abrogates
28 any common law cause of action. Nothing in this Section
29 shall be deemed to alter the law of negligence.

30 (4) As used in this Section:

31 "Adverse decision" means a decision reducing,
32 restricting, suspending, revoking, denying, or not
33 renewing medical staff membership or clinical privileges.

34 "Economic factor" means any information or reasons

1 for decisions unrelated to quality of care or
2 professional competency.

3 "Pre-applicant" means a physician licensed to
4 practice medicine in all its branches who requests an
5 application for medical staff membership or privileges.

6 "Privilege" means permission to provide medical or
7 other patient care services and permission to use
8 hospital resources, including equipment, facilities and
9 personnel that are necessary to effectively provide
10 medical or other patient care services. This definition
11 shall not be construed to require a hospital to acquire
12 additional equipment, facilities, or personnel to
13 accommodate the granting of privileges.

14 (5) Any amendment to medical staff bylaws required
15 because of this amendatory Act of the 91st General
16 Assembly shall be adopted on or before July 1, 2001.

17 (c) All hospitals shall consult with the medical staff
18 prior to closing membership in the entire or any portion of
19 the medical staff or a department. If the hospital closes
20 membership in the medical staff, any portion of the medical
21 staff, or the department over the objections of the medical
22 staff, then the hospital shall provide a detailed written
23 explanation for the decision to the medical staff 10 days
24 prior to the effective date of any closure. No applications
25 need to be provided when membership in the medical staff or
26 any relevant portion of the medical staff is closed.

27 (Source: P.A. 90-14, eff. 7-1-97; 90-149, eff. 1-1-98;
28 90-655, eff. 7-30-98; 91-166, eff. 1-1-00.)