



Sen. James F. Clayborne Jr.

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LRB096 11048 DRJ 22703 a

1 AMENDMENT TO SENATE BILL 1907

2 AMENDMENT NO. _____. Amend Senate Bill 1907 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7 (Section scheduled to be repealed on July 1, 2009)

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

1 licensed under the Nursing Home Care Act;

2 4. Hospitals, nursing homes, ambulatory surgical
3 treatment centers, or kidney disease treatment centers
4 maintained by the State or any department or agency
5 thereof;

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

9 6. An institution, place, building, or room used for
10 the performance of outpatient surgical procedures that is
11 leased, owned, or operated by or on behalf of an
12 out-of-state facility.

13 This Act shall not apply to the construction of any new
14 facility or the renovation of any existing facility located on
15 any campus facility as defined in Section 5-5.8b of the
16 Illinois Public Aid Code, provided that the campus facility
17 encompasses 30 or more contiguous acres and that the new or
18 renovated facility is intended for use by a licensed
19 residential facility.

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

23 No facility licensed under the Supportive Residences
24 Licensing Act or the Assisted Living and Shared Housing Act
25 shall be subject to the provisions of this Act.

26 A facility designated as a supportive living facility that

1 is in good standing with the program established under Section
2 5-5.01a of the Illinois Public Aid Code or a facility that is
3 in good standing with the Affordable Alzheimer's Demonstration
4 Project established under Section 5-5.01b of that Code shall
5 not be subject to the provisions of this Act.

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

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

24 This Act shall not apply to the closure of an entity or a
25 portion of an entity licensed under the Nursing Home Care Act,
26 with the exceptions of facilities operated by a county or

1 Illinois Veterans Homes, that elects to convert, in whole or in
2 part, to an assisted living or shared housing establishment
3 licensed under the Assisted Living and Shared Housing Act.

4 This Act does not apply to any change of ownership of a
5 healthcare facility that is licensed under the Nursing Home
6 Care Act, with the exceptions of facilities operated by a
7 county or Illinois Veterans Homes. Changes of ownership of
8 facilities licensed under the Nursing Home Care Act must meet
9 the requirements set forth in Sections 3-101 through 3-119 of
10 the Nursing Home Care Act.

11 With the exception of those health care facilities
12 specifically included in this Section, nothing in this Act
13 shall be intended to include facilities operated as a part of
14 the practice of a physician or other licensed health care
15 professional, whether practicing in his individual capacity or
16 within the legal structure of any partnership, medical or
17 professional corporation, or unincorporated medical or
18 professional group. Further, this Act shall not apply to
19 physicians or other licensed health care professional's
20 practices where such practices are carried out in a portion of
21 a health care facility under contract with such health care
22 facility by a physician or by other licensed health care
23 professionals, whether practicing in his individual capacity
24 or within the legal structure of any partnership, medical or
25 professional corporation, or unincorporated medical or
26 professional groups. This Act shall apply to construction or

1 modification and to establishment by such health care facility
2 of such contracted portion which is subject to facility
3 licensing requirements, irrespective of the party responsible
4 for such action or attendant financial obligation.

5 "Person" means any one or more natural persons, legal
6 entities, governmental bodies other than federal, or any
7 combination thereof.

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

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

19 "Construction or modification" means the establishment,
20 erection, building, alteration, reconstruction, modernization,
21 improvement, extension, discontinuation, change of ownership,
22 of or by a health care facility, or the purchase or acquisition
23 by or through a health care facility of equipment or service
24 for diagnostic or therapeutic purposes or for facility
25 administration or operation, or any capital expenditure made by
26 or on behalf of a health care facility which exceeds the

1 capital expenditure minimum; however, any capital expenditure
2 made by or on behalf of a health care facility for (i) the
3 construction or modification of a facility licensed under the
4 Assisted Living and Shared Housing Act or (ii) a conversion
5 project undertaken in accordance with Section 30 of the Older
6 Adult Services Act shall be excluded from any obligations under
7 this Act.

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

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

25 "Capital Expenditure" means an expenditure: (A) made by or
26 on behalf of a health care facility (as such a facility is

1 defined in this Act); and (B) which under generally accepted
2 accounting principles is not properly chargeable as an expense
3 of operation and maintenance, or is made to obtain by lease or
4 comparable arrangement any facility or part thereof or any
5 equipment for a facility or part; and which exceeds the capital
6 expenditure minimum.

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

21 "Capital expenditure minimum" means \$6,000,000, which
22 shall be annually adjusted to reflect the increase in
23 construction costs due to inflation, for major medical
24 equipment and for all other capital expenditures; provided,
25 however, that when a capital expenditure is for the
26 construction or modification of a health and fitness center,

1 "capital expenditure minimum" means the capital expenditure
2 minimum for all other capital expenditures in effect on March
3 1, 2000, which shall be annually adjusted to reflect the
4 increase in construction costs due to inflation.

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

24 "Areawide" means a major area of the State delineated on a
25 geographic, demographic, and functional basis for health
26 planning and for health service and having within it one or

1 more local areas for health planning and health service. The
2 term "region", as contrasted with the term "subregion", and the
3 word "area" may be used synonymously with the term "areawide".

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

8 "Areawide health planning organization" or "Comprehensive
9 health planning organization" means the health systems agency
10 designated by the Secretary, Department of Health and Human
11 Services or any successor agency.

12 "Local health planning organization" means those local
13 health planning organizations that are designated as such by
14 the areawide health planning organization of the appropriate
15 area.

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

18 "Licensed health care professional" means a person
19 licensed to practice a health profession under pertinent
20 licensing statutes of the State of Illinois.

21 "Director" means the Director of the Illinois Department of
22 Public Health.

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

24 "Comprehensive health planning" means health planning
25 concerned with the total population and all health and
26 associated problems that affect the well-being of people and

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

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

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

24 "Change of ownership of a health care facility" means a
25 change in the person who has ownership or control of a health
26 care facility's physical plant and capital assets. A change in

1 ownership is indicated by the following transactions: sale,
2 transfer, acquisition, lease, change of sponsorship, or other
3 means of transferring control.

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

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

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

15 (Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07;
16 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; 95-727, eff.
17 6-30-08; 95-876, eff. 8-21-08.)

18 Section 10. The Nursing Home Care Act is amended by
19 changing Section 1-113 as follows:

20 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

21 Sec. 1-113. "Facility" or "long-term care facility" means a
22 private home, institution, building, residence, or any other
23 place, whether operated for profit or not, or a county home for
24 the infirm and chronically ill operated pursuant to Division

1 5-21 or 5-22 of the Counties Code, or any similar institution
2 operated by a political subdivision of the State of Illinois,
3 which provides, through its ownership or management, personal
4 care, sheltered care or nursing for 3 or more persons, not
5 related to the applicant or owner by blood or marriage. It
6 includes skilled nursing facilities and intermediate care
7 facilities as those terms are defined in Title XVIII and Title
8 XIX of the Federal Social Security Act. It also includes homes,
9 institutions, or other places operated by or under the
10 authority of the Illinois Department of Veterans' Affairs.

11 "Facility" does not include the following:

12 (1) A home, institution, or other place operated by the
13 federal government or agency thereof, or by the State of
14 Illinois, other than homes, institutions, or other places
15 operated by or under the authority of the Illinois
16 Department of Veterans' Affairs;

17 (2) A hospital, sanitarium, or other institution whose
18 principal activity or business is the diagnosis, care, and
19 treatment of human illness through the maintenance and
20 operation as organized facilities therefor, which is
21 required to be licensed under the Hospital Licensing Act;

22 (3) Any "facility for child care" as defined in the
23 Child Care Act of 1969;

24 (4) Any "Community Living Facility" as defined in the
25 Community Living Facilities Licensing Act;

26 (5) Any "community residential alternative" as defined

1 in the Community Residential Alternatives Licensing Act;

2 (6) Any nursing home or sanatorium operated solely by
3 and for persons who rely exclusively upon treatment by
4 spiritual means through prayer, in accordance with the
5 creed or tenets of any well-recognized church or religious
6 denomination. However, such nursing home or sanatorium
7 shall comply with all local laws and rules relating to
8 sanitation and safety;

9 (7) Any facility licensed by the Department of Human
10 Services as a community-integrated living arrangement as
11 defined in the Community-Integrated Living Arrangements
12 Licensure and Certification Act;

13 (8) Any "Supportive Residence" licensed under the
14 Supportive Residences Licensing Act;

15 (9) Any "supportive living facility" in good standing
16 with the program established under Section 5-5.01a of the
17 Illinois Public Aid Code or a facility that is in good
18 standing with the Affordable Alzheimer's Demonstration
19 Project established under Section 5-5.01b of that Code,
20 except only for purposes of the employment of persons in
21 accordance with Section 3-206.01;

22 (10) Any assisted living or shared housing
23 establishment licensed under the Assisted Living and
24 Shared Housing Act, except only for purposes of the
25 employment of persons in accordance with Section 3-206.01;
26 or

1 (11) An Alzheimer's disease management center
2 alternative health care model licensed under the
3 Alternative Health Care Delivery Act.

4 (Source: P.A. 94-342, eff. 7-26-05; 95-380, eff. 8-23-07.)

5 Section 15. The Illinois Public Aid Code is amended by
6 adding Section 5-5.01b as follows:

7 (305 ILCS 5/5-5.01b new)

8 Sec. 5-5.01b. Affordable Alzheimer's Demonstration
9 Project.

10 (a) The Department of Healthcare and Family Services shall
11 establish within the Supportive Living Facility program an
12 Affordable Alzheimer's Demonstration Project.

13 (b) The purposes of the Affordable Alzheimer's
14 Demonstration Project are as follows:

15 (1) To identify the special housing and programming
16 needs of individuals afflicted with Alzheimer's and other
17 dementia-related diseases and their families, who are in
18 need of affordable alternatives.

19 (2) To seek viable solutions for residents of
20 market-rate Alzheimer's dedicated residential programs
21 whose financial resources become depleted.

22 (3) To evaluate the adequacy, accessibility, and
23 effectiveness of existing Alzheimer's dedicated units in
24 meeting the programming and housing needs of this

1 population.

2 (c) Programs eligible for the demonstration project must
3 meet the following criteria:

4 (1) They must seek to promote resident independence,
5 dignity, respect, and well-being in the most
6 cost-effective manner.

7 (2) They must be either a free-standing facility or a
8 distinct physical unit within a facility licensed under the
9 Nursing Home Care Act or the Assisted Living and Shared
10 Housing Act.

11 (3) They must integrate housing with health, personal
12 care, and supportive services and be a designated setting
13 that offers residents their own separate, private, and
14 distinct living units.

15 (4) They must offer programing specific to the needs of
16 individuals afflicted with Alzheimer's or other
17 dementia-related diseases.

18 (d) No fewer than 6 sites shall be selected to participate
19 in the demonstration project. No fewer than 2 sites each must
20 meet the following criteria:

21 (1) Be a newly constructed facility.

22 (2) Be a conversion of a facility licensed under the
23 Nursing Home Care Act.

24 (4) Be a dedicated Alzheimer's Unit licensed under the
25 Assisted Living and Shared Housing Act.

26 (e) Facilities or distinct parts of facilities which are

1 selected to participate in the demonstration project and are in
2 good standing with the Department's rules are exempt from the
3 provisions of the Nursing Home Care Act and the Illinois Health
4 Facilities Planning Act.

5 (f) The Department of Public Health and the Department on
6 Aging shall cooperate with the Department of Healthcare and
7 Family Services on the development, implementation, oversight,
8 and evaluation of the demonstration project.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".