



Rep. Barbara Flynn Currie

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LRB097 05313 PJG 55877 a

1 AMENDMENT TO SENATE BILL 40

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 40 as follows:

3 on page 1, line 5, after "Sections", by inserting "3,"; and

4 on page 1, immediately below line 6, by inserting the  
5 following:

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

7 (Section scheduled to be repealed on December 31, 2019)

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;

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

3           3.5. Skilled and intermediate care facilities licensed  
4 under the MR/DD Community Care Act;

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

9           5. Kidney disease treatment centers, including a  
10 free-standing hemodialysis unit required to be licensed  
11 under the End Stage Renal Disease Facility Act;

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

16           7. An institution, place, building, or room used for  
17 provision of a health care category of service as defined  
18 by the Board, including, but not limited to, cardiac  
19 catheterization and open heart surgery; and

20           8. An institution, place, building, or room used for  
21 provision of major medical equipment used in the direct  
22 clinical diagnosis or treatment of patients, and whose  
23 project cost is in excess of the capital expenditure  
24 minimum.

25           This Act shall not apply to the construction of any new  
26 facility or the renovation of any existing facility located on

1 any campus facility as defined in Section 5-5.8b of the  
2 Illinois Public Aid Code, provided that the campus facility  
3 encompasses 30 or more contiguous acres and that the new or  
4 renovated facility is intended for use by a licensed  
5 residential facility.

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

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

12 No facility established and operating under the  
13 Alternative Health Care Delivery Act as a children's respite  
14 care center alternative health care model demonstration  
15 program or as an Alzheimer's Disease Management Center  
16 alternative health care model demonstration program shall be  
17 subject to the provisions of this Act.

18 A facility designated as a supportive living facility that  
19 is in good standing with the program established under Section  
20 5-5.01a of the Illinois Public Aid Code shall not be subject to  
21 the provisions of this Act.

22 This Act does not apply to facilities granted waivers under  
23 Section 3-102.2 of the Nursing Home Care Act. However, if a  
24 demonstration project under that Act applies for a certificate  
25 of need to convert to a nursing facility, it shall meet the  
26 licensure and certificate of need requirements in effect as of

1 the date of application.

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

14 This Act shall not apply to the closure of an entity or a  
15 portion of an entity licensed under the Nursing Home Care Act  
16 or the MR/DD Community Care Act, with the exceptions of  
17 facilities operated by a county or Illinois Veterans Homes,  
18 that elects to convert, in whole or in part, to an assisted  
19 living or shared housing establishment licensed under the  
20 Assisted Living and Shared Housing Act.

21 This Act does not apply to any change of ownership of a  
22 healthcare facility that is licensed under the Nursing Home  
23 Care Act or the MR/DD Community Care Act, with the exceptions  
24 of facilities operated by a county or Illinois Veterans Homes.  
25 Changes of ownership of facilities licensed under the Nursing  
26 Home Care Act must meet the requirements set forth in Sections

1 3-101 through 3-119 of the Nursing Home Care Act.

2 This Act does not apply to public hospitals and health  
3 clinics operated by a county with a population of 3,000,000 or  
4 more inhabitants or by a governing authority established by the  
5 board of commissioners of a county with a population of  
6 3,000,000 or more inhabitants. The State Board, however, may  
7 require these public hospitals and health clinics to report  
8 statistical and other information to the Board to be used by  
9 the Board to conduct statewide inventories of health care  
10 facilities under Section 12 of this 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" or "Board" means the Health Facilities and  
19 Services Review Board.

20 "Construction or modification" means the establishment,  
21 erection, building, alteration, reconstruction, modernization,  
22 improvement, extension, discontinuation, change of ownership,  
23 of or by a health care facility, or the purchase or acquisition  
24 by or through a health care facility of equipment or service  
25 for diagnostic or therapeutic purposes or for facility  
26 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 (i) the  
4 construction or modification of a facility licensed under the  
5 Assisted Living and Shared Housing Act or (ii) a conversion  
6 project undertaken in accordance with Section 30 of the Older  
7 Adult Services Act shall be excluded from any obligations under  
8 this Act.

9 "Establish" means the construction of a health care  
10 facility or the replacement of an existing facility on another  
11 site or the initiation of a category of service as defined by  
12 the Board.

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

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

9 For the purpose of this paragraph, the cost of any studies,  
10 surveys, designs, plans, working drawings, specifications, and  
11 other activities essential to the acquisition, improvement,  
12 expansion, or replacement of any plant or equipment with  
13 respect to which an expenditure is made shall be included in  
14 determining if such expenditure exceeds the capital  
15 expenditures minimum. Unless otherwise interdependent, or  
16 submitted as one project by the applicant, components of  
17 construction or modification undertaken by means of a single  
18 construction contract or financed through the issuance of a  
19 single debt instrument shall not be grouped together as one  
20 project. Donations of equipment or facilities to a health care  
21 facility which if acquired directly by such facility would be  
22 subject to review under this Act shall be considered capital  
23 expenditures, and a transfer of equipment or facilities for  
24 less than fair market value shall be considered a capital  
25 expenditure for purposes of this Act if a transfer of the  
26 equipment or facilities at fair market value would be subject

1 to review.

2 "Capital expenditure minimum" means \$11,500,000 for  
3 projects by hospital applicants, \$6,500,000 for applicants for  
4 projects related to skilled and intermediate care long-term  
5 care facilities licensed under the Nursing Home Care Act, and  
6 \$3,000,000 for projects by all other applicants, which shall be  
7 annually adjusted to reflect the increase in construction costs  
8 due to inflation, for major medical equipment and for all other  
9 capital expenditures.

10 "Non-clinical service area" means an area (i) for the  
11 benefit of the patients, visitors, staff, or employees of a  
12 health care facility and (ii) not directly related to the  
13 diagnosis, treatment, or rehabilitation of persons receiving  
14 services from the health care facility. "Non-clinical service  
15 areas" include, but are not limited to, chapels; gift shops;  
16 news stands; computer systems; tunnels, walkways, and  
17 elevators; telephone systems; projects to comply with life  
18 safety codes; educational facilities; student housing;  
19 patient, employee, staff, and visitor dining areas;  
20 administration and volunteer offices; modernization of  
21 structural components (such as roof replacement and masonry  
22 work); boiler repair or replacement; vehicle maintenance and  
23 storage facilities; parking facilities; mechanical systems for  
24 heating, ventilation, and air conditioning; loading docks; and  
25 repair or replacement of carpeting, tile, wall coverings,  
26 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 "Physician" means a person licensed to practice in  
14 accordance with the Medical Practice Act of 1987, as amended.

15 "Licensed health care professional" means a person  
16 licensed to practice a health profession under pertinent  
17 licensing statutes of the State of Illinois.

18 "Director" means the Director of the Illinois Department of  
19 Public Health.

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

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

23 "Out-of-state facility" means a person that is both (i)  
24 licensed as a hospital or as an ambulatory surgery center under  
25 the laws of another state or that qualifies as a hospital or an  
26 ambulatory surgery center under regulations adopted pursuant

1 to the Social Security Act and (ii) not licensed under the  
2 Ambulatory Surgical Treatment Center Act, the Hospital  
3 Licensing Act, or the Nursing Home Care Act. Affiliates of  
4 out-of-state facilities shall be considered out-of-state  
5 facilities. Affiliates of Illinois licensed health care  
6 facilities 100% owned by an Illinois licensed health care  
7 facility, its parent, or Illinois physicians licensed to  
8 practice medicine in all its branches shall not be considered  
9 out-of-state facilities. Nothing in this definition shall be  
10 construed to include an office or any part of an office of a  
11 physician licensed to practice medicine in all its branches in  
12 Illinois that is not required to be licensed under the  
13 Ambulatory Surgical Treatment Center Act.

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

20 "Related person" means any person that: (i) is at least 50%  
21 owned, directly or indirectly, by either the health care  
22 facility or a person owning, directly or indirectly, at least  
23 50% of the health care facility; or (ii) owns, directly or  
24 indirectly, at least 50% of the health care facility.

25 "Charity care" means care provided by a health care  
26 facility for which the provider does not expect to receive

1 payment from the patient or a third-party payer.

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

5 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;  
6 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.  
7 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000,  
8 eff. 7-2-10.)".