



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2959

Introduced 2/4/2014, by Sen. Heather A. Steans

SYNOPSIS AS INTRODUCED:

See Index

Amends the Emergency Medical Services (EMS) Systems Act and the Hospital Emergency Service Act. Provides that rehabilitation hospitals and psychiatric hospitals, along with long-term acute care hospitals, are hospitals that are not required to provide hospital emergency services. Amends the Hospital Licensing Act and the State Finance Act. Requires a license fee to be submitted with an application for a license to operate a hospital. Creates the Hospital Licensure Fund as a special fund in the State treasury to provide funding for the administration of the licensure program and patient safety and quality initiatives for the hospitals, including, without limitation, the implementation of the Illinois Adverse Health Care Events Reporting Law of 2005. Sets forth the sources of funding and permissible disbursements for the Fund. Amends the Illinois Adverse Health Care Event Reporting Law of 2005. Defines "adverse health care event" as an event identified as a serious reportable event by the National Quality Forum on the effective date of the amendatory Act. Provides that the Department of Public Health shall adopt, by rule, the list of adverse health care events, and provides that if the National Quality Forum revises its list of serious reportable events, then the term "adverse health care event" shall be similarly revised. Removes language concerning certain reportable events. Provides that if the adverse health care events are revised, the Department of Public Health shall notify all affected health care facilities promptly. Makes other changes. Effective immediately.

LRB098 17147 RPS 52234 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 1. The Emergency Medical Services (EMS) Systems Act
5 is amended by changing Section 3.190 as follows:

6 (210 ILCS 50/3.190)

7 Sec. 3.190. Emergency Department Classifications. The
8 Department shall have the authority and responsibility to:

9 (a) Establish criteria for classifying the emergency
10 departments of ~~all~~ hospitals within the State as
11 Comprehensive, Basic, or Standby. In establishing such
12 criteria, the Department may consult with the Illinois
13 Hospital Licensing Board and incorporate by reference all
14 or part of existing standards adopted as rules pursuant to
15 the Hospital Licensing Act or Emergency Medical Treatment
16 Act;

17 (b) Classify the emergency departments of ~~all~~
18 hospitals within the State in accordance with this Section;

19 (c) Annually publish, and distribute to all EMS
20 Systems, a list reflecting the classification of all
21 emergency departments.

22 For the purposes of paragraphs (a) and (b) of this Section,
23 long-term acute care hospitals, rehabilitation hospitals, and

1 psychiatric hospitals, as defined under the Hospital Emergency
2 Service Act, are not required to provide hospital emergency
3 services. Long-term acute care hospitals, rehabilitation
4 hospitals, and psychiatric hospitals with no emergency
5 department ~~and~~ shall be classified as not available.

6 (Source: P.A. 97-667, eff. 1-13-12; 98-463, eff. 8-16-13.)

7 Section 3. The Hospital Emergency Service Act is amended by
8 changing Sections 1 and 1.3 as follows:

9 (210 ILCS 80/1) (from Ch. 111 1/2, par. 86)

10 Sec. 1. Every hospital required to be licensed by the
11 Department of Public Health pursuant to the Hospital Licensing
12 Act which provides general medical and surgical hospital
13 services, except long-term acute care hospitals, rehabilitation hospitals, and psychiatric hospitals identified
14 in Section 1.3 of this Act, shall provide a hospital emergency
15 service in accordance with rules and regulations adopted by the
16 Department of Public Health and shall furnish such hospital
17 emergency services to any applicant who applies for the same in
18 case of injury or acute medical condition where the same is
19 liable to cause death or severe injury or serious illness. For
20 purposes of this Act, "applicant" includes any person who is
21 brought to a hospital by ambulance or specialized emergency
22 medical services vehicle as defined in the Emergency Medical
23 Services (EMS) Systems Act.
24

1 (Source: P.A. 97-667, eff. 1-13-12.)

2 (210 ILCS 80/1.3)

3 Sec. 1.3. Long-term acute care hospitals, rehabilitation
4 hospitals, and psychiatric hospitals. For the purpose of this
5 Act, general acute care hospitals designated by Medicare as
6 long-term acute care hospitals, rehabilitation hospitals, or
7 psychiatric hospitals are not required to provide hospital
8 emergency services described in Section 1 of this Act.
9 Hospitals defined in this Section may provide hospital
10 emergency services at their option.

11 Any long-term acute care hospital ~~defined in this Section~~
12 that opts to discontinue or otherwise not provide emergency
13 services described in Section 1 shall:

14 (1) comply with all provisions of the federal Emergency
15 Medical Treatment and ~~&~~ Labor Act (EMTALA);

16 (2) comply with all provisions required under the
17 Social Security Act;

18 (3) provide annual notice to communities in the
19 hospital's service area about available emergency medical
20 services; and

21 (4) make educational materials available to
22 individuals who are present at the hospital concerning the
23 availability of medical services within the hospital's
24 service area.

25 Long-term acute care hospitals that operate standby

1 emergency services as of January 1, 2011 may discontinue
2 hospital emergency services by notifying the Department of
3 Public Health. Long-term acute care hospitals that operate
4 basic or comprehensive emergency services must notify the
5 Health Facilities and Services Review Board and follow the
6 appropriate procedures.

7 Any rehabilitation hospital or psychiatric hospital that
8 opts to discontinue or otherwise not provide emergency services
9 described in Section 1 shall:

10 (1) comply with all provisions of the federal Emergency
11 Medical Treatment and Active Labor Act (EMTALA);

12 (2) comply with all provisions required under the
13 Social Security Act;

14 (3) provide annual notice to communities in the
15 hospital's service area about available emergency medical
16 services;

17 (4) make educational materials available to
18 individuals who are present at the hospital concerning the
19 availability of medical services within the hospital's
20 service area;

21 (5) not use the term "hospital" in its name or on any
22 signage; and

23 (6) notify in writing the Department and the Health
24 Facilities and Services Review Board of the
25 discontinuation.

26 (Source: P.A. 97-667, eff. 1-13-12; revised 9-11-13.)

1 Section 5. The Hospital Licensing Act is amended by
2 changing Sections 5 and 6 and by adding Section 14.5 as
3 follows:

4 (210 ILCS 85/5) (from Ch. 111 1/2, par. 146)

5 Sec. 5. (a) An application for a permit to establish a
6 hospital shall be made to the Department upon forms provided by
7 it. This application shall contain such information as the
8 Department reasonably requires, which shall include
9 affirmative evidence on which the Director may make the
10 findings required under Section 6a of this Act.

11 (b) An application for a license to open, conduct, operate,
12 and maintain a hospital shall be made to the Department upon
13 forms provided by it, accompanied by a license fee of \$55 per
14 bed, or such lesser amount as the Department may establish by
15 administrative rule in consultation with the Department of
16 Healthcare and Family Services to comply with the limitations
17 on health care-related taxes imposed by 42 U.S.C. 1396b(w)
18 that, if violated, would result in reductions to the amount of
19 federal financial participation received by the State for
20 Medicaid expenditures, and shall contain such information as
21 the Department reasonably requires, which may include
22 affirmative evidence of ability to comply with the provisions
23 of this Act and the standards, rules, and regulations,
24 promulgated by virtue thereof.

1 (c) All applications required under this Section shall be
2 signed by the applicant and shall be verified. Applications on
3 behalf of a corporation or association or a governmental unit
4 or agency shall be made and verified by any two officers
5 thereof.

6 (Source: Laws 1965, p. 2350.)

7 (210 ILCS 85/6) (from Ch. 111 1/2, par. 147)

8 Sec. 6. (a) Upon receipt of an application for a permit to
9 establish a hospital the Director shall issue a permit if he
10 finds (1) that the applicant is fit, willing, and able to
11 provide a proper standard of hospital service for the community
12 with particular regard to the qualification, background, and
13 character of the applicant, (2) that the financial resources
14 available to the applicant demonstrate an ability to construct,
15 maintain, and operate a hospital in accordance with the
16 standards, rules, and regulations adopted pursuant to this Act,
17 and (3) that safeguards are provided which assure hospital
18 operation and maintenance consistent with the public interest
19 having particular regard to safe, adequate, and efficient
20 hospital facilities and services.

21 The Director may request the cooperation of county and
22 multiple-county health departments, municipal boards of
23 health, and other governmental and non-governmental agencies
24 in obtaining information and in conducting investigations
25 relating to such applications.

1 A permit to establish a hospital shall be valid only for
2 the premises and person named in the application for such
3 permit and shall not be transferable or assignable.

4 In the event the Director issues a permit to establish a
5 hospital the applicant shall thereafter submit plans and
6 specifications to the Department in accordance with Section 8
7 of this Act.

8 (b) Upon receipt of an application for license to open,
9 conduct, operate, and maintain a hospital, the Director shall
10 issue a license if he finds the applicant and the hospital
11 facilities comply with standards, rules, and regulations
12 promulgated under this Act. A license, unless sooner suspended
13 or revoked, shall be renewable annually upon approval by the
14 Department and payment of a license fee as established pursuant
15 to Section 5 of this Act. Each license shall be issued only for
16 the premises and persons named in the application and shall not
17 be transferable or assignable. Licenses shall be posted in a
18 conspicuous place on the licensed premises. The Department may,
19 either before or after the issuance of a license, request the
20 cooperation of the State Fire Marshal, county and multiple
21 county health departments, or municipal boards of health to
22 make investigations to determine if the applicant or licensee
23 is complying with the minimum standards prescribed by the
24 Department. The report and recommendations of any such agency
25 shall be in writing and shall state with particularity its
26 findings with respect to compliance or noncompliance with such

1 minimum standards, rules, and regulations.

2 The Director may issue a provisional license to any
3 hospital which does not substantially comply with the
4 provisions of this Act and the standards, rules, and
5 regulations promulgated by virtue thereof provided that he
6 finds that such hospital has undertaken changes and corrections
7 which upon completion will render the hospital in substantial
8 compliance with the provisions of this Act, and the standards,
9 rules, and regulations adopted hereunder, and provided that the
10 health and safety of the patients of the hospital will be
11 protected during the period for which such provisional license
12 is issued. The Director shall advise the licensee of the
13 conditions under which such provisional license is issued,
14 including the manner in which the hospital facilities fail to
15 comply with the provisions of the Act, standards, rules, and
16 regulations, and the time within which the changes and
17 corrections necessary for such hospital facilities to
18 substantially comply with this Act, and the standards, rules,
19 and regulations of the Department relating thereto shall be
20 completed.

21 (Source: P.A. 80-56.)

22 (210 ILCS 85/14.5 new)

23 Sec. 14.5. Hospital Licensure Fund.

24 (a) There is created in the State treasury the Hospital
25 Licensure Fund. The Fund is created for the purpose of

1 providing funding for the administration of the licensure
2 program and patient safety and quality initiatives for
3 hospitals, including, without limitation, the implementation
4 of the Illinois Adverse Health Care Events Reporting Law of
5 2005.

6 (b) The Fund shall consist of the following:

7 (1) fees collected pursuant to this Section;

8 (2) federal matching funds received by the State as a
9 result of expenditures made by the Department that are
10 attributable to moneys deposited in the Fund;

11 (3) interest earned on moneys deposited in the Fund;

12 and

13 (4) other moneys received for the Fund from any other
14 source, including interest earned thereon.

15 (c) Disbursements from the Fund shall be made only for:

16 (1) initially, the implementation of the Illinois
17 Adverse Health Care Events Reporting Law of 2005;

18 (2) subsequently, programs, information, or
19 assistance, including measures to address public
20 complaints, designed to measurably improve quality and
21 patient safety; and

22 (3) the reimbursement of moneys collected by the
23 Department through error or mistake.

24 (d) The uses described in paragraphs (1) and (2) of
25 subsection (c) shall be developed in conjunction with a
26 statewide organization representing a majority of hospitals.

1 Section 8. The Illinois Adverse Health Care Events
2 Reporting Law of 2005 is amended by changing Sections 10-10 and
3 10-15 as follows:

4 (410 ILCS 522/10-10)

5 Sec. 10-10. Definitions. As used in this Law, the following
6 terms have the following meanings:

7 "Adverse health care event" means any event identified as a
8 serious reportable event by the National Quality Forum on the
9 effective date of this amendatory Act of the 98th General
10 Assembly. The Department shall adopt, by rule, the list of
11 adverse health care events. The rules in effect on May 1, 2013,
12 that define "adverse health care event" shall remain in effect
13 until new rules are adopted in accordance with this amendatory
14 Act of the 98th General Assembly. If the National Quality Forum
15 thereafter revises its list of serious reportable events
16 through addition, deletion, or modification, then the term
17 "adverse health care event" for purposes of this Law shall be
18 similarly revised, effective no sooner than 6 months after the
19 revision by the National Quality Forum. ~~described in~~
20 ~~subsections (b) through (g) of Section 10-15.~~

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

23 "Health care facility" means a hospital maintained by the
24 State or any department or agency thereof where such department

1 or agency has authority under law to establish and enforce
2 standards for the hospital under its management and control, a
3 hospital maintained by any university or college established
4 under the laws of this State and supported principally by
5 public funds raised by taxation, a hospital licensed under the
6 Hospital Licensing Act, a hospital organized under the
7 University of Illinois Hospital Act, and an ambulatory surgical
8 treatment center licensed under the Ambulatory Surgical
9 Treatment Center Act.

10 (Source: P.A. 94-242, eff. 7-18-05.)

11 (410 ILCS 522/10-15)

12 Sec. 10-15. Health care facility requirements to report,
13 analyze, and correct.

14 (a) Reports of adverse health care events required. Each
15 health care facility shall report to the Department the
16 occurrence of any ~~of the~~ adverse health care events ~~described~~
17 ~~in subsections (b) through (g)~~ no later than 30 days after
18 discovery of the event. The report shall be filed in a format
19 specified by the Department and shall identify the health care
20 facility, but shall not include any information identifying or
21 that tends to identify any of the health care professionals,
22 employees, or patients involved.

23 (b) (Blank). ~~Surgical events. Events reportable under this~~
24 ~~subsection are:~~

25 ~~(1) Surgery performed on a wrong body part that is not~~

1 ~~consistent with the documented informed consent for that~~
2 ~~patient. Reportable events under this clause do not include~~
3 ~~situations requiring prompt action that occur in the course~~
4 ~~of surgery or situations whose urgency precludes obtaining~~
5 ~~informed consent.~~

6 ~~(2) Surgery performed on the wrong patient.~~

7 ~~(3) The wrong surgical procedure performed on a patient~~
8 ~~that is not consistent with the documented informed consent~~
9 ~~for that patient. Reportable events under this clause do~~
10 ~~not include situations requiring prompt action that occur~~
11 ~~in the course of surgery or situations whose urgency~~
12 ~~precludes obtaining informed consent.~~

13 ~~(4) Retention of a foreign object in a patient after~~
14 ~~surgery or other procedure, excluding objects~~
15 ~~intentionally implanted as part of a planned intervention~~
16 ~~and objects present prior to surgery that are intentionally~~
17 ~~retained.~~

18 ~~(5) Death during or immediately after surgery of a~~
19 ~~normal, healthy patient who has no organic, physiologic,~~
20 ~~biochemical, or psychiatric disturbance and for whom the~~
21 ~~pathologic processes for which the operation is to be~~
22 ~~performed are localized and do not entail a systemic~~
23 ~~disturbance.~~

24 (c) (Blank). ~~Product or device events. Events reportable~~
25 ~~under this subsection are:~~

26 ~~(1) Patient death or serious disability associated~~

1 ~~with the use of contaminated drugs, devices, or biologics~~
2 ~~provided by the health care facility when the contamination~~
3 ~~is the result of generally detectable contaminants in~~
4 ~~drugs, devices, or biologics regardless of the source of~~
5 ~~the contamination or the product.~~

6 ~~(2) Patient death or serious disability associated~~
7 ~~with the use or function of a device in patient care in~~
8 ~~which the device is used or functions other than as~~
9 ~~intended. "Device" includes, but is not limited to,~~
10 ~~catheters, drains, and other specialized tubes, infusion~~
11 ~~pumps, and ventilators.~~

12 ~~(3) Patient death or serious disability associated~~
13 ~~with intravascular air embolism that occurs while being~~
14 ~~cared for in a health care facility, excluding deaths~~
15 ~~associated with neurosurgical procedures known to present~~
16 ~~a high risk of intravascular air embolism.~~

17 (d) (Blank). ~~Patient protection events. Events reportable~~
18 ~~under this subsection are:~~

19 ~~(1) An infant discharged to the wrong person.~~

20 ~~(2) Patient death or serious disability associated~~
21 ~~with patient disappearance for more than 4 hours, excluding~~
22 ~~events involving adults who have decision-making capacity.~~

23 ~~(3) Patient suicide or attempted suicide resulting in~~
24 ~~serious disability while being cared for in a health care~~
25 ~~facility due to patient actions after admission to the~~
26 ~~health care facility, excluding deaths resulting from~~

1 ~~self-inflicted injuries that were the reason for admission~~
2 ~~to the health care facility.~~

3 (e) (Blank). ~~Care management events. Events reportable~~
4 ~~under this subsection are:~~

5 ~~(1) Patient death or serious disability associated~~
6 ~~with a medication error, including, but not limited to,~~
7 ~~errors involving the wrong drug, the wrong dose, the wrong~~
8 ~~patient, the wrong time, the wrong rate, the wrong~~
9 ~~preparation, or the wrong route of administration,~~
10 ~~excluding reasonable differences in clinical judgment on~~
11 ~~drug selection and dose.~~

12 ~~(2) Patient death or serious disability associated~~
13 ~~with a hemolytic reaction due to the administration of~~
14 ~~ABO incompatible blood or blood products.~~

15 ~~(3) Maternal death or serious disability associated~~
16 ~~with labor or delivery in a low risk pregnancy while being~~
17 ~~cared for in a health care facility, excluding deaths from~~
18 ~~pulmonary or amniotic fluid embolism, acute fatty liver of~~
19 ~~pregnancy, or cardiomyopathy.~~

20 ~~(4) Patient death or serious disability directly~~
21 ~~related to hypoglycemia, the onset of which occurs while~~
22 ~~the patient is being cared for in a health care facility~~
23 ~~for a condition unrelated to hypoglycemia.~~

24 (f) (Blank). ~~Environmental events. Events reportable under~~
25 ~~this subsection are:~~

26 ~~(1) Patient death or serious disability associated~~

1 ~~with an electric shock while being cared for in a health~~
2 ~~care facility, excluding events involving planned~~
3 ~~treatments such as electric countershock.~~

4 ~~(2) Any incident in which a line designated for oxygen~~
5 ~~or other gas to be delivered to a patient contains the~~
6 ~~wrong gas or is contaminated by toxic substances.~~

7 ~~(3) Patient death or serious disability associated~~
8 ~~with a burn incurred from any source while being cared for~~
9 ~~in a health care facility that is not consistent with the~~
10 ~~documented informed consent for that patient. Reportable~~
11 ~~events under this clause do not include situations~~
12 ~~requiring prompt action that occur in the course of surgery~~
13 ~~or situations whose urgency precludes obtaining informed~~
14 ~~consent.~~

15 ~~(4) Patient death associated with a fall while being~~
16 ~~cared for in a health care facility.~~

17 ~~(5) Patient death or serious disability associated~~
18 ~~with the use of restraints or bedrails while being cared~~
19 ~~for in a health care facility.~~

20 (g) (Blank). ~~Physical security events. Events reportable~~
21 ~~under this subsection are:~~

22 ~~(1) Any instance of care ordered by or provided by~~
23 ~~someone impersonating a physician, nurse, pharmacist, or~~
24 ~~other licensed health care provider.~~

25 ~~(2) Abduction of a patient of any age.~~

26 ~~(3) Sexual assault on a patient within or on the~~

1 ~~grounds of a health care facility.~~

2 ~~(4) Death or significant injury of a patient or staff~~
3 ~~member resulting from a physical assault that occurs within~~
4 ~~or on the grounds of a health care facility.~~

5 (g-5) If the adverse health care events subject to this Law
6 are revised as described in Section 10-10, then the Department
7 shall provide notice to all affected health care facilities
8 promptly upon the revision and shall inform affected health
9 care facilities of the effective date of the revision for
10 purposes of reporting under this Law.

11 (h) Definitions. As pertains to an adverse health care
12 event used in this Section 10-15:

13 "Death" means patient death related to an adverse event
14 and not related solely to the natural course of the patient's
15 illness or underlying condition. Events otherwise reportable
16 under this Section 10-15 shall be reported even if the death
17 might have otherwise occurred as the natural course of the
18 patient's illness or underlying condition.

19 "Serious disability" means a physical or mental
20 impairment, including loss of a body part, related to an
21 adverse event and not related solely to the natural course of
22 the patient's illness or underlying condition, that
23 substantially limits one or more of the major life activities
24 of an individual or a loss of bodily function, if the
25 impairment or loss lasts more than 7 days prior to discharge or
26 is still present at the time of discharge from an inpatient

1 health care facility.

2 (Source: P.A. 94-242, eff. 7-18-05.)

3 Section 10. The State Finance Act is amended by adding
4 Section 5.855 as follows:

5 (30 ILCS 105/5.855 new)

6 Sec. 5.855. The Hospital Licensure Fund.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 210 ILCS 50/3.190

4 210 ILCS 80/1 from Ch. 111 1/2, par. 86

5 210 ILCS 80/1.3

6 210 ILCS 85/5 from Ch. 111 1/2, par. 146

7 210 ILCS 85/6 from Ch. 111 1/2, par. 147

8 210 ILCS 85/14.5 new

9 410 ILCS 522/10-10

10 410 ILCS 522/10-15

11 30 ILCS 105/5.855 new