



Sen. Ira I. Silverstein

Filed: 5/18/2004

09300HB1659sam002

LRB093 07003 BDD 51237 a

1 AMENDMENT TO HOUSE BILL 1659

2 AMENDMENT NO. _____. Amend House Bill 1659, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Health Facilities Planning Act is
6 amended by changing Section 3 as follows:

7 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)
8 (Section scheduled to be repealed on July 1, 2008)

9 Sec. 3. Definitions. As used in this Act:

10 "Health care facilities" means and includes the following
11 facilities and organizations:

12 1. An ambulatory surgical treatment center required to
13 be licensed pursuant to the Ambulatory Surgical Treatment
14 Center Act;

15 2. An institution, place, building, or agency required
16 to be licensed pursuant to the Hospital Licensing Act;

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

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

21 4. Hospitals, nursing homes, ambulatory surgical
22 treatment centers, or kidney disease treatment centers
23 maintained by the State or any department or agency
24 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 No federally owned facility shall be subject to the
9 provisions of this Act, nor facilities used solely for healing
10 by prayer or spiritual means.

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

14 A facility designated as a supportive living facility that
15 is in good standing with the demonstration project established
16 under Section 5-5.01a of the Illinois Public Aid Code shall not
17 be subject to the provisions of this Act.

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

24 This Act does not apply to a dialysis facility that
25 provides only dialysis training, support, and related services
26 to individuals with end stage renal disease who have elected to
27 receive home dialysis. This Act does not apply to a dialysis
28 unit located in a licensed nursing home that offers or provides
29 dialysis-related services to residents with end stage renal
30 disease who have elected to receive home dialysis within the
31 nursing home. The Board, however, may require these dialysis
32 facilities and licensed nursing homes to report statistical
33 information on a quarterly basis to the Board to be used by the
34 Board to conduct analyses on the need for proposed kidney

1 disease treatment centers.

2 This Act shall not apply to the closure of an entity or a
3 portion of an entity licensed under the Nursing Home Care Act
4 that elects to convert, in whole or in part, to an assisted
5 living or shared housing establishment licensed under the
6 Assisted Living and Shared Housing Act.

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

27 "Person" means any one or more natural persons, legal
28 entities, governmental bodies other than federal, or any
29 combination thereof.

30 "Consumer" means any person other than a person (a) whose
31 major occupation currently involves or whose official capacity
32 within the last 12 months has involved the providing,
33 administering or financing of any type of health care facility,
34 (b) who is engaged in health research or the teaching of

1 health, (c) who has a material financial interest in any
2 activity which involves the providing, administering or
3 financing of any type of health care facility, or (d) who is or
4 ever has been a member of the immediate family of the person
5 defined by (a), (b), or (c).

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

7 "Construction or modification" means the establishment,
8 erection, building, alteration, reconstruction, modernization,
9 improvement, extension, discontinuation, change of ownership,
10 of or by a health care facility, or the purchase or acquisition
11 by or through a health care facility of equipment or service
12 for diagnostic or therapeutic purposes or for facility
13 administration or operation, or any capital expenditure made by
14 or on behalf of a health care facility which exceeds the
15 capital expenditure minimum; however, any capital expenditure
16 made by or on behalf of a health care facility for the
17 construction or modification of a facility licensed under the
18 Assisted Living and Shared Housing Act shall be excluded from
19 any obligations under this Act.

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

23 "Major medical equipment" means medical equipment which is
24 used for the provision of medical and other health services and
25 which costs in excess of the capital expenditure minimum,
26 except that such term does not include medical equipment
27 acquired by or on behalf of a clinical laboratory to provide
28 clinical laboratory services if the clinical laboratory is
29 independent of a physician's office and a hospital and it has
30 been determined under Title XVIII of the Social Security Act to
31 meet the requirements of paragraphs (10) and (11) of Section
32 1861(s) of such Act. In determining whether medical equipment
33 has a value in excess of the capital expenditure minimum, the
34 value of studies, surveys, designs, plans, working drawings,

1 specifications, and other activities essential to the
2 acquisition of such equipment shall be included.

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

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

25 "Capital expenditure minimum" means \$6,000,000, which
26 shall be annually adjusted to reflect the increase in
27 construction costs due to inflation, for major medical
28 equipment and for all other capital expenditures; provided,
29 however, that when a capital expenditure is for the
30 construction or modification of a health and fitness center,
31 "capital expenditure minimum" means the capital expenditure
32 minimum for all other capital expenditures in effect on March
33 1, 2000, which shall be annually adjusted to reflect the
34 increase in construction costs due to inflation.

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

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

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

30 "Areawide health planning organization" or "Comprehensive
31 health planning organization" means the health systems agency
32 designated by the Secretary, Department of Health and Human
33 Services or any successor agency.

34 "Local health planning organization" means those local

1 health planning organizations that are designated as such by
2 the areawide health planning organization of the appropriate
3 area.

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

6 "Licensed health care professional" means a person
7 licensed to practice a health profession under pertinent
8 licensing statutes of the State of Illinois.

9 "Director" means the Director of the Illinois Department of
10 Public Health.

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

12 "Comprehensive health planning" means health planning
13 concerned with the total population and all health and
14 associated problems that affect the well-being of people and
15 that encompasses health services, health manpower, and health
16 facilities; and the coordination among these and with those
17 social, economic, and environmental factors that affect
18 health.

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

21 "Out-of-state facility" means a person that is both (i)
22 licensed as a hospital or as an ambulatory surgery center under
23 the laws of another state or that qualifies as a hospital or an
24 ambulatory surgery center under regulations adopted pursuant
25 to the Social Security Act and (ii) not licensed under the
26 Ambulatory Surgical Treatment Center Act, the Hospital
27 Licensing Act, or the Nursing Home Care Act. Affiliates of
28 out-of-state facilities shall be considered out-of-state
29 facilities. Affiliates of Illinois licensed health care
30 facilities 100% owned by an Illinois licensed health care
31 facility, its parent, or Illinois physicians licensed to
32 practice medicine in all its branches shall not be considered
33 out-of-state facilities. Nothing in this definition shall be
34 construed to include an office or any part of an office of a

1 physician licensed to practice medicine in all its branches in
2 Illinois that is not required to be licensed under the
3 Ambulatory Surgical Treatment Center Act.

4 "Change of ownership of a health care facility" means a
5 change in the person who has ownership or control of a health
6 care facility's physical plant and capital assets. A change in
7 ownership is indicated by the following transactions: sale,
8 transfer, acquisition, lease, change of sponsorship, or other
9 means of transferring control.

10 "Related person" means any person that: (i) is at least 50%
11 owned, directly or indirectly, by either the health care
12 facility or a person owning, directly or indirectly, at least
13 50% of the health care facility; or (ii) owns, directly or
14 indirectly, at least 50% of the health care facility.

15 (Source: P.A. 93-41, eff. 6-27-03.)

16 Section 10. The End Stage Renal Disease Facility Act is
17 amended by changing Sections 10 and 20 as follows:

18 (210 ILCS 62/10)

19 Sec. 10. License required. Except as provided by this Act,
20 no person shall open, manage, conduct, offer, maintain, or
21 advertise an end stage renal disease facility without a valid
22 license issued by the Department.

23 Each ESRDF, including those that provide only training
24 services, may oversee remote station facilities for home
25 dialysis patients in licensed nursing homes under the ESRDF's
26 license. These remote station facilities are not required to
27 obtain a separate license under this Act, but shall be
28 inspected under Department rules as remote stations of the
29 ESRDF.

30 Notwithstanding any other provisions of this Section, all
31 end stage renal disease facilities in existence as of the
32 effective date of rules adopted by the Department to implement

1 this Act (the "Implementation Date") may continue to operate
2 but must ~~this Act shall~~ obtain a valid license to operate
3 within one year after the Implementation Date ~~adoption of rules~~
4 ~~to implement this Act.~~

5 (Source: P.A. 92-794, eff. 7-1-03.)

6 (210 ILCS 62/20)

7 Sec. 20. Issuance and renewal of license.

8 (a) An applicant for a license under this Act shall submit
9 an application on forms prescribed by the Department.

10 (b) Each application shall be accompanied by a
11 non-refundable license fee, as established by rule of the
12 Department.

13 (c) Each application shall contain evidence that there is
14 at least one physician responsible for the medical direction of
15 the facility and that each dialysis technician on staff has
16 completed a training program as required by this Act.

17 (d) The Department may grant a temporary initial license to
18 an applicant. A temporary initial license expires on the
19 earlier of (i) the date the Department issues or denies the
20 license or (ii) the date 6 months after the temporary initial
21 license was issued. The Department may issue subsequent
22 temporary licenses when necessary.

23 (e) The Department shall issue a license if, after
24 application, inspection, and investigation, it finds the
25 applicant meets the requirements of this Act and the standards
26 adopted pursuant to this Act. The Department may include
27 participation as a supplier of end stage renal disease services
28 under Titles XVIII and XIX of the federal Social Security Act
29 as a condition of licensure. The Department may consider
30 facilities and remote stations certified under Titles XVIII and
31 XIX of the federal Social Security Act as meeting the licensure
32 requirements under this Section.

33 (f) The license is renewable annually after submission of

1 (i) the renewal application and fee and (ii) an annual report
2 on a form prescribed by the Department that includes
3 information related to quality of care at the end stage renal
4 disease facility. The report must be in the form and documented
5 by evidence as required by Department rule.

6 (Source: P.A. 92-794, eff. 7-1-03.)

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