



Filed: 5/5/2005

09400HB3417sam001

LRB094 09291 RSP 46049 a

1 AMENDMENT TO HOUSE BILL 3417

2 AMENDMENT NO. _____. Amend House Bill 3417 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 Sections 3, 5, and 19.6 as follows:

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

7 (Section scheduled to be repealed on July 1, 2006)

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
17 licensed under the Nursing Home Care Act;

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

20 4. Hospitals, nursing homes, ambulatory surgical
21 treatment centers, or kidney disease treatment centers
22 maintained by the State or any department or agency
23 thereof;

24 5. Kidney disease treatment centers, including a

1 free-standing hemodialysis unit required to be licensed
2 under the End Stage Renal Disease Facility Act; and

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

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

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

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

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

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

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

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

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

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

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

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

6 "Construction or modification" means the establishment,
7 erection, building, alteration, reconstruction, modernization,
8 improvement, extension, discontinuation, change of ownership,
9 of or by a health care facility, or the purchase or acquisition
10 by or through a health care facility of equipment or service
11 for diagnostic or therapeutic purposes or for facility
12 administration or operation, or any capital expenditure made by
13 or on behalf of a health care facility which exceeds the
14 capital expenditure minimum; however, any capital expenditure
15 made by or on behalf of a health care facility for (i) the
16 construction or modification of a facility licensed under the
17 Assisted Living and Shared Housing Act or (ii) a conversion
18 project undertaken in accordance with Section 30 of the Older
19 Adult Services Act shall be excluded from any obligations under
20 this Act.

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

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

1 value of studies, surveys, designs, plans, working drawings,
2 specifications, and other activities essential to the
3 acquisition of such equipment shall be included.

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

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

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

1 increase in construction costs due to inflation.

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

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

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

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

1 "Local health planning organization" means those local
2 health planning organizations that are designated as such by
3 the areawide health planning organization of the appropriate
4 area.

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

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

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

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

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

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

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

1 construed to include an office or any part of an office of a
2 physician licensed to practice medicine in all its branches in
3 Illinois that is not required to be licensed under the
4 Ambulatory Surgical Treatment Center Act.

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

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

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

19 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
20 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; revised 10-25-04.)

21 (20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

22 (Section scheduled to be repealed on July 1, 2006)

23 Sec. 5. After effective dates set by the State Board, no
24 person shall construct, modify or establish a health care
25 facility or acquire major medical equipment without first
26 obtaining a permit or exemption from the State Board. The State
27 Board shall not delegate to the Executive Secretary of the
28 State Board or any other person or entity the authority to
29 grant permits or exemptions whenever the Executive Secretary or
30 other person or entity would be required to exercise any
31 discretion affecting the decision to grant a permit or
32 exemption. The State Board shall set effective dates applicable
33 to all or to each classification or category of health care

1 facilities and applicable to all or each type of transaction
2 for which a permit is required. Varying effective dates may be
3 set, providing the date or dates so set shall apply uniformly
4 statewide.

5 Notwithstanding any effective dates established by this
6 Act or by the State Board, no person shall be required to
7 obtain a permit for any purpose under this Act until the State
8 health facilities plan referred to in paragraph (4) of Section
9 12 of this Act has been approved and adopted by the State Board
10 subsequent to public hearings having been held thereon.

11 A permit or exemption shall be obtained prior to the
12 acquisition of major medical equipment or to the construction
13 or modification of a health care facility which:

14 (a) requires a total capital expenditure in excess of
15 the capital expenditure minimum; or

16 (b) except for the establishment of swing-beds
17 authorized under Title XVIII of the federal Social Security
18 Act, substantially changes the scope or changes the
19 functional operation of the facility; or

20 (c) changes the bed capacity of a health care facility
21 by increasing the total number of beds or by distributing
22 beds among various categories of service or by relocating
23 beds from one physical facility or site to another by more
24 than 20 ~~10~~ beds or more than 10% of total bed capacity as
25 defined by the State Board, whichever is less, over a 2
26 year period.

27 A permit shall be valid only for the defined construction
28 or modifications, site, amount and person named in the
29 application for such permit and shall not be transferable or
30 assignable. A permit shall be valid until such time as the
31 project has been completed, provided that (a) obligation of the
32 project occurs within 12 months following issuance of the
33 permit except for major construction projects such obligation
34 must occur within 18 months following issuance of the permit;

1 and (b) the project commences and proceeds to completion with
2 due diligence. Major construction projects, for the purposes of
3 this Act, shall include but are not limited to: projects for
4 the construction of new buildings; additions to existing
5 facilities; modernization projects whose cost is in excess of
6 \$1,000,000 or 10% of the facilities' operating revenue,
7 whichever is less; and such other projects as the State Board
8 shall define and prescribe pursuant to this Act. The State
9 Board may extend the obligation period upon a showing of good
10 cause by the permit holder. Permits for projects that have not
11 been obligated within the prescribed obligation period shall
12 expire on the last day of that period.

13 Persons who otherwise would be required to obtain a permit
14 shall be exempt from such requirement if the State Board finds
15 that with respect to establishing a new facility or
16 construction of new buildings or additions or modifications to
17 an existing facility, final plans and specifications for such
18 work have prior to October 1, 1974, been submitted to and
19 approved by the Department of Public Health in accordance with
20 the requirements of applicable laws. Such exemptions shall be
21 null and void after December 31, 1979 unless binding
22 construction contracts were signed prior to December 1, 1979
23 and unless construction has commenced prior to December 31,
24 1979. Such exemptions shall be valid until such time as the
25 project has been completed provided that the project proceeds
26 to completion with due diligence.

27 The acquisition by any person of major medical equipment
28 that will not be owned by or located in a health care facility
29 and that will not be used to provide services to inpatients of
30 a health care facility shall be exempt from review provided
31 that a notice is filed in accordance with exemption
32 requirements.

33 Notwithstanding any other provision of this Act, no permit
34 or exemption is required for the construction or modification

1 of a non-clinical service area of a health care facility.

2 (Source: P.A. 91-782, eff. 6-9-00.)

3 (20 ILCS 3960/19.6)

4 (Section scheduled to be repealed on July 1, 2006)

5 Sec. 19.6. Repeal. This Act is repealed on July 1, 2011
6 ~~2006~~.

7 (Source: P.A. 93-41, eff. 6-27-03; 93-889, eff. 8-9-04.)

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