

1 AN ACT in relation to health facilities.

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

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7 (Section scheduled to be repealed on July 1, 2006)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

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

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

31 No federally owned facility shall be subject to the
32 provisions of this Act, nor facilities used solely for healing

1 by prayer or spiritual means.

2 No facility licensed under the Supportive Residences
3 Licensing Act or the Assisted Living and Shared Housing Act
4 shall be subject to the provisions of this Act.

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

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

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

27 This Act shall not apply to the closure of an entity or a
28 portion of an entity licensed under the Nursing Home Care Act
29 that elects to convert, in whole or in part, to an assisted
30 living or shared housing establishment licensed under the
31 Assisted Living and Shared Housing Act.

32 With the exception of those health care facilities
33 specifically included in this Section, nothing in this Act
34 shall be intended to include facilities operated as a part of
35 the practice of a physician or other licensed health care
36 professional, whether practicing in his individual capacity or

1 within the legal structure of any partnership, medical or
2 professional corporation, or unincorporated medical or
3 professional group. Further, this Act shall not apply to
4 physicians or other licensed health care professional's
5 practices where such practices are carried out in a portion of
6 a health care facility under contract with such health care
7 facility by a physician or by other licensed health care
8 professionals, whether practicing in his individual capacity
9 or within the legal structure of any partnership, medical or
10 professional corporation, or unincorporated medical or
11 professional groups. This Act shall apply to construction or
12 modification and to establishment by such health care facility
13 of such contracted portion which is subject to facility
14 licensing requirements, irrespective of the party responsible
15 for such action or attendant financial obligation.

16 "Person" means any one or more natural persons, legal
17 entities, governmental bodies other than federal, or any
18 combination thereof.

19 "Consumer" means any person other than a person (a) whose
20 major occupation currently involves or whose official capacity
21 within the last 12 months has involved the providing,
22 administering or financing of any type of health care facility,
23 (b) who is engaged in health research or the teaching of
24 health, (c) who has a material financial interest in any
25 activity which involves the providing, administering or
26 financing of any type of health care facility, or (d) who is or
27 ever has been a member of the immediate family of the person
28 defined by (a), (b), or (c).

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

30 "Construction or modification" means the establishment,
31 erection, building, alteration, reconstruction, modernization,
32 improvement, extension, discontinuation, change of ownership,
33 of or by a health care facility, or the purchase or acquisition
34 by or through a health care facility of equipment or service
35 for diagnostic or therapeutic purposes or for facility
36 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.

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

26 "Capital Expenditure" means an expenditure: (A) made by or
27 on behalf of a health care facility (as such a facility is
28 defined in this Act); and (B) which under generally accepted
29 accounting principles is not properly chargeable as an expense
30 of operation and maintenance, or is made to obtain by lease or
31 comparable arrangement any facility or part thereof or any
32 equipment for a facility or part; and which exceeds the capital
33 expenditure minimum.

34 For the purpose of this paragraph, the cost of any studies,
35 surveys, designs, plans, working drawings, specifications, and
36 other activities essential to the acquisition, improvement,

1 expansion, or replacement of any plant or equipment with
2 respect to which an expenditure is made shall be included in
3 determining if such expenditure exceeds the capital
4 expenditures minimum. Donations of equipment or facilities to a
5 health care facility which if acquired directly by such
6 facility would be subject to review under this Act shall be
7 considered capital expenditures, and a transfer of equipment or
8 facilities for less than fair market value shall be considered
9 a capital expenditure for purposes of this Act if a transfer of
10 the equipment or facilities at fair market value would be
11 subject to review.

12 "Capital expenditure minimum" means \$6,000,000, which
13 shall be annually adjusted to reflect the increase in
14 construction costs due to inflation, for major medical
15 equipment and for all other capital expenditures; provided,
16 however, that when a capital expenditure is for the
17 construction or modification of a health and fitness center,
18 "capital expenditure minimum" means the capital expenditure
19 minimum for all other capital expenditures in effect on March
20 1, 2000, which shall be annually adjusted to reflect the
21 increase in construction costs due to inflation and when a
22 capital expenditure is by a hospital, "capital expenditure
23 minimum" means \$8,500,000, which shall be annually adjusted to
24 reflect the increase in construction costs due to inflation.

25 "Non-clinical service area" means an area (i) for the
26 benefit of the patients, visitors, staff, or employees of a
27 health care facility and (ii) not directly related to the
28 diagnosis, treatment, or rehabilitation of persons receiving
29 services from the health care facility. "Non-clinical service
30 areas" include, but are not limited to, chapels; gift shops;
31 news stands; computer systems; tunnels, walkways, and
32 elevators; telephone systems; projects to comply with life
33 safety codes; research facilities; educational facilities;
34 auditoriums; student housing; patient, employee, staff, and
35 visitor dining areas; administration and volunteer offices;
36 modernization of structural components (such as roof

1 replacement and masonry work); boiler repair or replacement;
2 vehicle maintenance and storage facilities; parking
3 facilities; mechanical systems for heating, ventilation, and
4 air conditioning; loading docks; and repair or replacement of
5 carpeting, tile, wall coverings, window coverings or
6 treatments, or furniture. Solely for the purpose of this
7 definition, "non-clinical service area" does not include
8 health and fitness centers.

9 "Areawide" means a major area of the State delineated on a
10 geographic, demographic, and functional basis for health
11 planning and for health service and having within it one or
12 more local areas for health planning and health service. The
13 term "region", as contrasted with the term "subregion", and the
14 word "area" may be used synonymously with the term "areawide".

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

19 "Areawide health planning organization" or "Comprehensive
20 health planning organization" means the health systems agency
21 designated by the Secretary, Department of Health and Human
22 Services or any successor agency.

23 "Local health planning organization" means those local
24 health planning organizations that are designated as such by
25 the areawide health planning organization of the appropriate
26 area.

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

29 "Licensed health care professional" means a person
30 licensed to practice a health profession under pertinent
31 licensing statutes of the State of Illinois.

32 "Director" means the Director of the Illinois Department of
33 Public Health.

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

35 "Comprehensive health planning" means health planning
36 concerned with the total population and all health and

1 associated problems that affect the well-being of people and
2 that encompasses health services, health manpower, and health
3 facilities; and the coordination among these and with those
4 social, economic, and environmental factors that affect
5 health.

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

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

25 "Change of ownership of a health care facility" means a
26 change in the person who has ownership or control of a health
27 care facility's physical plant and capital assets. A change in
28 ownership is indicated by the following transactions: sale,
29 transfer, acquisition, lease, change of sponsorship, or other
30 means of transferring control.

31 "Related person" means any person that: (i) is at least 50%
32 owned, directly or indirectly, by either the health care
33 facility or a person owning, directly or indirectly, at least
34 50% of the health care facility; or (ii) owns, directly or
35 indirectly, at least 50% of the health care facility.

36 "Charity care" means care provided by a health care

1 facility for which the provider does not expect to receive
2 payment from the patient or a third-party payer.

3 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
4 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; revised 10-25-04.)

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

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

7 Sec. 5. After effective dates set by the State Board, no
8 person shall construct, modify or establish a health care
9 facility or acquire major medical equipment without first
10 obtaining a permit or exemption from the State Board. The State
11 Board shall not delegate to the Executive Secretary of the
12 State Board or any other person or entity the authority to
13 grant permits or exemptions whenever the Executive Secretary or
14 other person or entity would be required to exercise any
15 discretion affecting the decision to grant a permit or
16 exemption. The State Board shall set effective dates applicable
17 to all or to each classification or category of health care
18 facilities and applicable to all or each type of transaction
19 for which a permit is required. Varying effective dates may be
20 set, providing the date or dates so set shall apply uniformly
21 statewide.

22 Notwithstanding any effective dates established by this
23 Act or by the State Board, no person shall be required to
24 obtain a permit for any purpose under this Act until the State
25 health facilities plan referred to in paragraph (4) of Section
26 12 of this Act has been approved and adopted by the State Board
27 subsequent to public hearings having been held thereon.

28 A permit or exemption shall be obtained prior to the
29 acquisition of major medical equipment or to the construction
30 or modification of a health care facility which:

31 (a) requires a total capital expenditure in excess of
32 the capital expenditure minimum; or

33 (b) except for the establishment of swing-beds
34 authorized under Title XVIII of the federal Social Security
35 Act, substantially changes the scope or changes the

1 functional operation of the facility; or

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

9 A permit shall be valid only for the defined construction
10 or modifications, site, amount and person named in the
11 application for such permit and shall not be transferable or
12 assignable. A permit shall be valid until such time as the
13 project has been completed, provided that (a) obligation of the
14 project occurs within 12 months following issuance of the
15 permit except for major construction projects such obligation
16 must occur within 18 months following issuance of the permit;
17 and (b) the project commences and proceeds to completion with
18 due diligence. Major construction projects, for the purposes of
19 this Act, shall include but are not limited to: projects for
20 the construction of new buildings; additions to existing
21 facilities; modernization projects whose cost is in excess of
22 \$1,000,000 or 10% of the facilities' operating revenue,
23 whichever is less; and such other projects as the State Board
24 shall define and prescribe pursuant to this Act. The State
25 Board may extend the obligation period upon a showing of good
26 cause by the permit holder. Permits for projects that have not
27 been obligated within the prescribed obligation period shall
28 expire on the last day of that period.

29 Persons who otherwise would be required to obtain a permit
30 shall be exempt from such requirement if the State Board finds
31 that with respect to establishing a new facility or
32 construction of new buildings or additions or modifications to
33 an existing facility, final plans and specifications for such
34 work have prior to October 1, 1974, been submitted to and
35 approved by the Department of Public Health in accordance with
36 the requirements of applicable laws. Such exemptions shall be

1 null and void after December 31, 1979 unless binding
2 construction contracts were signed prior to December 1, 1979
3 and unless construction has commenced prior to December 31,
4 1979. Such exemptions shall be valid until such time as the
5 project has been completed provided that the project proceeds
6 to completion with due diligence.

7 The acquisition by any person of major medical equipment
8 that will not be owned by or located in a health care facility
9 and that will not be used to provide services to inpatients of
10 a health care facility shall be exempt from review provided
11 that a notice is filed in accordance with exemption
12 requirements.

13 Notwithstanding any other provision of this Act, no permit
14 or exemption is required for the construction or modification
15 of a non-clinical service area of a health care facility.

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

17 (20 ILCS 3960/19.6)

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

19 Sec. 19.6. Repeal. This Act is repealed on July 1, 2011
20 ~~2006~~.

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.