



Sen. John J. Cullerton

Filed: 2/10/2006

09400SB2965sam001

LRB094 19001 RSP 55803 a

1 AMENDMENT TO SENATE BILL 2965

2 AMENDMENT NO. _____. Amend Senate Bill 2965 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 Section 3 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7 (Section scheduled to be repealed on July 1, 2006)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; exemptions. 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 program established under Section
15 5-5.01a of the Illinois Public Aid Code shall not be subject to
16 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 This Act does not apply to an ambulatory surgical treatment
7 center licensed under the Ambulatory Surgical Treatment Center
8 Act that consists of any place, clinic, or practice located
9 within and operated in conjunction with a single physician or
10 podiatrist office, or an office of a group of physicians or
11 podiatrists, that participates or intends to participate as an
12 ambulatory surgical center under the federal Medicare program,
13 and that is used by those physicians or podiatrists for
14 surgical procedures that constitute not more than 50% of the
15 activities at that location.

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

1 for such action or attendant financial obligation.

2 "Person" means any one or more natural persons, legal
3 entities, governmental bodies other than federal, or any
4 combination thereof.

5 "Consumer" means any person other than a person (a) whose
6 major occupation currently involves or whose official capacity
7 within the last 12 months has involved the providing,
8 administering or financing of any type of health care facility,
9 (b) who is engaged in health research or the teaching of
10 health, (c) who has a material financial interest in any
11 activity which involves the providing, administering or
12 financing of any type of health care facility, or (d) who is or
13 ever has been a member of the immediate family of the person
14 defined by (a), (b), or (c).

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

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

31 "Establish" means the construction of a health care
32 facility or the replacement of an existing facility on another
33 site.

34 "Major medical equipment" means medical equipment which is

1 used for the provision of medical and other health services and
2 which costs in excess of the capital expenditure minimum,
3 except that such term does not include medical equipment
4 acquired by or on behalf of a clinical laboratory to provide
5 clinical laboratory services if the clinical laboratory is
6 independent of a physician's office and a hospital and it has
7 been determined under Title XVIII of the Social Security Act to
8 meet the requirements of paragraphs (10) and (11) of Section
9 1861(s) of such Act. In determining whether medical equipment
10 has a value in excess of the capital expenditure minimum, the
11 value of studies, surveys, designs, plans, working drawings,
12 specifications, and other activities essential to the
13 acquisition of such equipment shall be included.

14 "Capital Expenditure" means an expenditure: (A) made by or
15 on behalf of a health care facility (as such a facility is
16 defined in this Act); and (B) which under generally accepted
17 accounting principles is not properly chargeable as an expense
18 of operation and maintenance, or is made to obtain by lease or
19 comparable arrangement any facility or part thereof or any
20 equipment for a facility or part; and which exceeds the capital
21 expenditure minimum.

22 For the purpose of this paragraph, the cost of any studies,
23 surveys, designs, plans, working drawings, specifications, and
24 other activities essential to the acquisition, improvement,
25 expansion, or replacement of any plant or equipment with
26 respect to which an expenditure is made shall be included in
27 determining if such expenditure exceeds the capital
28 expenditures minimum. Donations of equipment or facilities to a
29 health care facility which if acquired directly by such
30 facility would be subject to review under this Act shall be
31 considered capital expenditures, and a transfer of equipment or
32 facilities for less than fair market value shall be considered
33 a capital expenditure for purposes of this Act if a transfer of
34 the equipment or facilities at fair market value would be

1 subject to review.

2 "Capital expenditure minimum" means \$6,000,000, which
3 shall be annually adjusted to reflect the increase in
4 construction costs due to inflation, for major medical
5 equipment and for all other capital expenditures; provided,
6 however, that when a capital expenditure is for the
7 construction or modification of a health and fitness center,
8 "capital expenditure minimum" means the capital expenditure
9 minimum for all other capital expenditures in effect on March
10 1, 2000, which shall be annually adjusted to reflect the
11 increase in construction costs due to inflation.

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

31 "Areawide" means a major area of the State delineated on a
32 geographic, demographic, and functional basis for health
33 planning and for health service and having within it one or
34 more local areas for health planning and health service. The

1 term "region", as contrasted with the term "subregion", and the
2 word "area" may be used synonymously with the term "areawide".

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

7 "Areawide health planning organization" or "Comprehensive
8 health planning organization" means the health systems agency
9 designated by the Secretary, Department of Health and Human
10 Services or any successor agency.

11 "Local health planning organization" means those local
12 health planning organizations that are designated as such by
13 the areawide health planning organization of the appropriate
14 area.

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

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

20 "Director" means the Director of the Illinois Department of
21 Public Health.

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

23 "Comprehensive health planning" means health planning
24 concerned with the total population and all health and
25 associated problems that affect the well-being of people and
26 that encompasses health services, health manpower, and health
27 facilities; and the coordination among these and with those
28 social, economic, and environmental factors that affect
29 health.

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

32 "Out-of-state facility" means a person that is both (i)
33 licensed as a hospital or as an ambulatory surgery center under
34 the laws of another state or that qualifies as a hospital or an

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

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

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

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

29 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
30 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; 94-342, eff.
31 7-26-05; revised 10-19-05.)".