

**SB1563**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB1563**

Introduced 2/9/2007, by Sen. Bill Brady

**SYNOPSIS AS INTRODUCED:**

210 ILCS 85/10.4

from Ch. 111 1/2, par. 151.4

Amends the Hospital Licensing Act. Provides that exclusive contracts for professional medical services may be entered into only for anesthesiology (excluding pain management), emergency medicine, neonatology, pathology, and radiology services.

LRB095 04848 DRJ 24910 b

**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 5. The Hospital Licensing Act is amended by  
5 changing Section 10.4 as follows:

6 (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

7 Sec. 10.4. Medical staff privileges.

8 (a) Any hospital licensed under this Act or any hospital  
9 organized under the University of Illinois Hospital Act shall,  
10 prior to the granting of any medical staff privileges to an  
11 applicant, or renewing a current medical staff member's  
12 privileges, request of the Director of Professional Regulation  
13 information concerning the licensure status and any  
14 disciplinary action taken against the applicant's or medical  
15 staff member's license, except: (1) for medical personnel who  
16 enter a hospital to obtain organs and tissues for transplant  
17 from a donor in accordance with the Illinois Anatomical Gift  
18 Act; or (2) for medical personnel who have been granted  
19 disaster privileges pursuant to the procedures and  
20 requirements established by rules adopted by the Department.  
21 Any hospital and any employees of the hospital or others  
22 involved in granting privileges who that, in good faith, grant  
23 ~~grants~~ disaster privileges pursuant to this Section to respond

1 to an emergency shall not, as a result of their ~~his, her, or~~  
2 ~~its~~ acts or omissions, be liable for civil damages for granting  
3 or denying disaster privileges except in the event of willful  
4 and wanton misconduct, as that term is defined in Section 10.2  
5 of this Act. Individuals granted privileges who provide care in  
6 an emergency situation, in good faith and without direct  
7 compensation, shall not, as a result of their ~~his or her~~ acts  
8 or omissions, except for acts or omissions involving willful  
9 and wanton misconduct, as that term is defined in Section 10.2  
10 of this Act, on the part of the person, be liable for civil  
11 damages. The Director of Professional Regulation shall  
12 transmit, in writing and in a timely fashion, such information  
13 regarding the license of the applicant or the medical staff  
14 member, including the record of imposition of any periods of  
15 supervision or monitoring as a result of alcohol or substance  
16 abuse, as provided by Section 23 of the Medical Practice Act of  
17 1987, and such information as may have been submitted to the  
18 Department indicating that the application or medical staff  
19 member has been denied, or has surrendered, medical staff  
20 privileges at a hospital licensed under this Act, or any  
21 equivalent facility in another state or territory of the United  
22 States. The Director of Professional Regulation shall define by  
23 rule the period for timely response to such requests.

24 No transmittal of information by the Director of  
25 Professional Regulation, under this Section shall be to other  
26 than the president, chief operating officer, chief

1 administrative officer, or chief of the medical staff of a  
2 hospital licensed under this Act, a hospital organized under  
3 the University of Illinois Hospital Act, or a hospital operated  
4 by the United States, or any of its instrumentalities. The  
5 information so transmitted shall be afforded the same status as  
6 is information concerning medical studies by Part 21 of Article  
7 VIII of the Code of Civil Procedure, as now or hereafter  
8 amended.

9 (b) All hospitals licensed under this Act, except county  
10 hospitals as defined in subsection (c) of Section 15-1 of the  
11 Illinois Public Aid Code, shall comply with, and the medical  
12 staff bylaws of these hospitals shall include rules consistent  
13 with, the provisions of this Section in granting, limiting,  
14 renewing, or denying medical staff membership and clinical  
15 staff privileges. Hospitals that require medical staff members  
16 to possess faculty status with a specific institution of higher  
17 education are not required to comply with subsection (1) below  
18 when the physician does not possess faculty status.

19 (1) Minimum procedures for pre-applicants and  
20 applicants for medical staff membership shall include the  
21 following:

22 (A) Written procedures relating to the acceptance  
23 and processing of pre-applicants or applicants for  
24 medical staff membership, which should be contained in  
25 medical staff bylaws.

26 (B) Written procedures to be followed in

1 determining a pre-applicant's or an applicant's  
2 qualifications for being granted medical staff  
3 membership and privileges.

4 (C) Written criteria to be followed in evaluating a  
5 pre-applicant's or an applicant's qualifications.

6 (D) An evaluation of a pre-applicant's or an  
7 applicant's current health status and current license  
8 status in Illinois.

9 (E) A written response to each pre-applicant or  
10 applicant that explains the reason or reasons for any  
11 adverse decision (including all reasons based in whole  
12 or in part on the applicant's medical qualifications or  
13 any other basis, including economic factors).

14 (2) Minimum procedures with respect to medical staff  
15 and clinical privilege determinations concerning current  
16 members of the medical staff shall include the following:

17 (A) A written notice of an adverse decision.

18 (B) An explanation of the reasons for an adverse  
19 decision including all reasons based on the quality of  
20 medical care or any other basis, including economic  
21 factors.

22 (C) A statement of the medical staff member's right  
23 to request a fair hearing on the adverse decision  
24 before a hearing panel whose membership is mutually  
25 agreed upon by the medical staff and the hospital  
26 governing board. The hearing panel shall have

1 independent authority to recommend action to the  
2 hospital governing board. Upon the request of the  
3 medical staff member or the hospital governing board,  
4 the hearing panel shall make findings concerning the  
5 nature of each basis for any adverse decision  
6 recommended to and accepted by the hospital governing  
7 board.

8 (i) Nothing in this subparagraph (C) limits a  
9 hospital's or medical staff's right to summarily  
10 suspend, without a prior hearing, a person's  
11 medical staff membership or clinical privileges if  
12 the continuation of practice of a medical staff  
13 member constitutes an immediate danger to the  
14 public, including patients, visitors, and hospital  
15 employees and staff. A fair hearing shall be  
16 commenced within 15 days after the suspension and  
17 completed without delay.

18 (ii) Nothing in this subparagraph (C) limits a  
19 medical staff's right to permit, in the medical  
20 staff bylaws, summary suspension of membership or  
21 clinical privileges in designated administrative  
22 circumstances as specifically approved by the  
23 medical staff. This bylaw provision must  
24 specifically describe both the administrative  
25 circumstance that can result in a summary  
26 suspension and the length of the summary

1 suspension. The opportunity for a fair hearing is  
2 required for any administrative summary  
3 suspension. Any requested hearing must be  
4 commenced within 15 days after the summary  
5 suspension and completed without delay. Adverse  
6 decisions other than suspension or other  
7 restrictions on the treatment or admission of  
8 patients may be imposed summarily and without a  
9 hearing under designated administrative  
10 circumstances as specifically provided for in the  
11 medical staff bylaws as approved by the medical  
12 staff.

13 (iii) If a hospital exercises its option to  
14 enter into an exclusive contract and that contract  
15 results in the total or partial termination or  
16 reduction of medical staff membership or clinical  
17 privileges of a current medical staff member, the  
18 hospital shall provide the affected medical staff  
19 member 60 days prior notice of the effect on his or  
20 her medical staff membership or privileges. An  
21 affected medical staff member desiring a hearing  
22 under subparagraph (C) of this paragraph (2) must  
23 request the hearing within 14 days after the date  
24 he or she is so notified. The requested hearing  
25 shall be commenced and completed (with a report and  
26 recommendation to the affected medical staff

1 member, hospital governing board, and medical  
2 staff) within 30 days after the date of the medical  
3 staff member's request. If agreed upon by both the  
4 medical staff and the hospital governing board,  
5 the medical staff bylaws may provide for longer  
6 time periods. Exclusive contracts for professional  
7 medical services may be entered into only for  
8 anesthesiology (excluding pain management),  
9 emergency medicine, neonatology, pathology, and  
10 radiology services.

11 (D) A statement of the member's right to inspect  
12 all pertinent information in the hospital's possession  
13 with respect to the decision.

14 (E) A statement of the member's right to present  
15 witnesses and other evidence at the hearing on the  
16 decision.

17 (F) A written notice and written explanation of the  
18 decision resulting from the hearing.

19 (F-5) A written notice of a final adverse decision  
20 by a hospital governing board.

21 (G) Notice given 15 days before implementation of  
22 an adverse medical staff membership or clinical  
23 privileges decision based substantially on economic  
24 factors. This notice shall be given after the medical  
25 staff member exhausts all applicable procedures under  
26 this Section, including item (iii) of subparagraph (C)



1 of this paragraph (2), and under the medical staff  
2 bylaws in order to allow sufficient time for the  
3 orderly provision of patient care.

4 (H) Nothing in this paragraph (2) of this  
5 subsection (b) limits a medical staff member's right to  
6 waive, in writing, the rights provided in  
7 subparagraphs (A) through (G) of this paragraph (2) of  
8 this subsection (b) upon being granted the written  
9 exclusive right to provide particular services at a  
10 hospital, either individually or as a member of a  
11 group. If an exclusive contract is signed by a  
12 representative of a group of physicians, a waiver  
13 contained in the contract shall apply to all members of  
14 the group unless stated otherwise in the contract.

15 (3) Every adverse medical staff membership and  
16 clinical privilege decision based substantially on  
17 economic factors shall be reported to the Hospital  
18 Licensing Board before the decision takes effect. These  
19 reports shall not be disclosed in any form that reveals the  
20 identity of any hospital or physician. These reports shall  
21 be utilized to study the effects that hospital medical  
22 staff membership and clinical privilege decisions based  
23 upon economic factors have on access to care and the  
24 availability of physician services. The Hospital Licensing  
25 Board shall submit an initial study to the Governor and the  
26 General Assembly by January 1, 1996, and subsequent reports

1 shall be submitted periodically thereafter.

2 (4) As used in this Section:

3 "Adverse decision" means a decision reducing,  
4 restricting, suspending, revoking, denying, or not  
5 renewing medical staff membership or clinical privileges.

6 "Economic factor" means any information or reasons for  
7 decisions unrelated to quality of care or professional  
8 competency.

9 "Pre-applicant" means a physician licensed to practice  
10 medicine in all its branches who requests an application  
11 for medical staff membership or privileges.

12 "Privilege" means permission to provide medical or  
13 other patient care services and permission to use hospital  
14 resources, including equipment, facilities and personnel  
15 that are necessary to effectively provide medical or other  
16 patient care services. This definition shall not be  
17 construed to require a hospital to acquire additional  
18 equipment, facilities, or personnel to accommodate the  
19 granting of privileges.

20 (5) Any amendment to medical staff bylaws required  
21 because of this amendatory Act of the 91st General Assembly  
22 shall be adopted on or before July 1, 2001.

23 (c) All hospitals shall consult with the medical staff  
24 prior to closing membership in the entire or any portion of the  
25 medical staff or a department. If the hospital closes  
26 membership in the medical staff, any portion of the medical

1 staff, or the department over the objections of the medical  
2 staff, then the hospital shall provide a detailed written  
3 explanation for the decision to the medical staff 10 days prior  
4 to the effective date of any closure. No applications need to  
5 be provided when membership in the medical staff or any  
6 relevant portion of the medical staff is closed.

7 (Source: P.A. 93-794, eff. 7-22-04; 93-829, eff. 7-28-04;  
8 revised 11-22-05.)