

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 Illinois Health Facilities Planning Act is  
5 amended by changing Section 3 and adding Section 5.1a as  
6 follows:

7 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

8 (Section scheduled to be repealed on May 31, 2007)

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

1           thereof;

2           5. Kidney disease treatment centers, including a  
3           free-standing hemodialysis unit required to be licensed  
4           under the End Stage Renal Disease Facility Act; and

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

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

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

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

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

25          This Act does not apply to a dialysis facility that  
26          provides only dialysis training, support, and related services

1 to individuals with end stage renal disease who have elected to  
2 receive home dialysis. This Act does not apply to a dialysis  
3 unit located in a licensed nursing home that offers or provides  
4 dialysis-related services to residents with end stage renal  
5 disease who have elected to receive home dialysis within the  
6 nursing home. The Board, however, may require these dialysis  
7 facilities and licensed nursing homes to report statistical  
8 information on a quarterly basis to the Board to be used by the  
9 Board to conduct analyses on the need for proposed kidney  
10 disease treatment centers.

11 This Act shall not apply to the closure of an entity or a  
12 portion of an entity licensed under the Nursing Home Care Act  
13 that elects to convert, in whole or in part, to an assisted  
14 living or shared housing establishment licensed under the  
15 Assisted Living and Shared Housing Act.

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

1 facility by a physician or by other licensed health care  
2 professionals, whether practicing in his individual capacity  
3 or within the legal structure of any partnership, medical or  
4 professional corporation, or unincorporated medical or  
5 professional groups. This Act shall apply to construction or  
6 modification and to establishment by such health care facility  
7 of such contracted portion which is subject to facility  
8 licensing requirements, irrespective of the party responsible  
9 for such action or attendant financial obligation.

10 "Person" means any one or more natural persons, legal  
11 entities, governmental bodies other than federal, or any  
12 combination thereof.

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

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

24 "Construction or modification" means the establishment,  
25 erection, building, alteration, reconstruction, modernization,  
26 improvement, extension, discontinuation, change of ownership,

1 of or by a health care facility, or the purchase or acquisition  
2 by or through a health care facility of equipment or service  
3 for diagnostic or therapeutic purposes or for facility  
4 administration or operation, or any capital expenditure made by  
5 or on behalf of a health care facility which exceeds the  
6 capital expenditure minimum; however, any capital expenditure  
7 made by or on behalf of a health care facility for (i) the  
8 construction or modification of a facility licensed under the  
9 Assisted Living and Shared Housing Act or (ii) a conversion  
10 project undertaken in accordance with Section 30 of the Older  
11 Adult Services Act shall be excluded from any obligations under  
12 this Act.

13 "Establish" means the construction of a health care  
14 facility or the replacement of an existing facility on another  
15 site.

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

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

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

1 purpose of this definition, "non-clinical service area" does  
2 not include health and fitness centers.

3 "Areawide" means a major area of the State delineated on a  
4 geographic, demographic, and functional basis for health  
5 planning and for health service and having within it one or  
6 more local areas for health planning and health service. The  
7 term "region", as contrasted with the term "subregion", and the  
8 word "area" may be used synonymously with the term "areawide".

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

13 "Areawide health planning organization" or "Comprehensive  
14 health planning organization" means the health systems agency  
15 designated by the Secretary, Department of Health and Human  
16 Services or any successor agency.

17 "Local health planning organization" means those local  
18 health planning organizations that are designated as such by  
19 the areawide health planning organization of the appropriate  
20 area.

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

23 "Licensed health care professional" means a person  
24 licensed to practice a health profession under pertinent  
25 licensing statutes of the State of Illinois.

26 "Director" means the Director of the Illinois Department of



1 Public Health.

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

3 "Comprehensive health planning" means health planning  
4 concerned with the total population and all health and  
5 associated problems that affect the well-being of people and  
6 that encompasses health services, health manpower, and health  
7 facilities; and the coordination among these and with those  
8 social, economic, and environmental factors that affect  
9 health.

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

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

1 Illinois that is not required to be licensed under the  
2 Ambulatory Surgical Treatment Center Act.

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

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

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

17 "Freestanding emergency center" means a facility subject  
18 to licensure under Section 32.5 of the Emergency Medical  
19 Services (EMS) Systems Act.

20 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;  
21 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; 94-342, eff.  
22 7-26-05; revised 4-3-07.)

23 (20 ILCS 3960/5.1a new)

24 Sec. 5.1a. No person shall construct, modify, or establish  
25 a freestanding emergency center in Illinois, or acquire major

1 medical equipment or make capital expenditures in relation to  
2 such a facility in excess of the capital expenditure minimum,  
3 as defined by this Act, without first obtaining a permit from  
4 the State Board in accordance with criteria, standards, and  
5 procedures adopted by the State Board for freestanding  
6 emergency centers that ensure the availability of and community  
7 access to essential emergency medical services.

8 Section 10. The Emergency Medical Services (EMS) Systems  
9 Act is amended by changing Sections 3.20 and 32.5 as follows:

10 (210 ILCS 50/3.20)

11 Sec. 3.20. Emergency Medical Services (EMS) Systems.

12 (a) "Emergency Medical Services (EMS) System" means an  
13 organization of hospitals, vehicle service providers and  
14 personnel approved by the Department in a specific geographic  
15 area, which coordinates and provides pre-hospital and  
16 inter-hospital emergency care and non-emergency medical  
17 transports at a BLS, ILS and/or ALS level pursuant to a System  
18 program plan submitted to and approved by the Department, and  
19 pursuant to the EMS Region Plan adopted for the EMS Region in  
20 which the System is located.

21 (b) One hospital in each System program plan must be  
22 designated as the Resource Hospital. All other hospitals which  
23 are located within the geographic boundaries of a System and  
24 which have standby, basic or comprehensive level emergency

1 departments must function in that EMS System as either an  
2 Associate Hospital or Participating Hospital and follow all  
3 System policies specified in the System Program Plan, including  
4 but not limited to the replacement of drugs and equipment used  
5 by providers who have delivered patients to their emergency  
6 departments. All hospitals and vehicle service providers  
7 participating in an EMS System must specify their level of  
8 participation in the System Program Plan.

9 (c) The Department shall have the authority and  
10 responsibility to:

11 (1) Approve BLS, ILS and ALS level EMS Systems which  
12 meet minimum standards and criteria established in rules  
13 adopted by the Department pursuant to this Act, including  
14 the submission of a Program Plan for Department approval.  
15 Beginning September 1, 1997, the Department shall approve  
16 the development of a new EMS System only when a local or  
17 regional need for establishing such System has been  
18 identified. This shall not be construed as a needs  
19 assessment for health planning or other purposes outside of  
20 this Act. Following Department approval, EMS Systems must  
21 be fully operational within one year from the date of  
22 approval.

23 (2) Monitor EMS Systems, based on minimum standards for  
24 continuing operation as prescribed in rules adopted by the  
25 Department pursuant to this Act, which shall include  
26 requirements for submitting Program Plan amendments to the

1 Department for approval.

2 (3) Renew EMS System approvals every 4 years, after an  
3 inspection, based on compliance with the standards for  
4 continuing operation prescribed in rules adopted by the  
5 Department pursuant to this Act.

6 (4) Suspend, revoke, or refuse to renew approval of any  
7 EMS System, after providing an opportunity for a hearing,  
8 when findings show that it does not meet the minimum  
9 standards for continuing operation as prescribed by the  
10 Department, or is found to be in violation of its  
11 previously approved Program Plan.

12 (5) Require each EMS System to adopt written protocols  
13 for the bypassing of or diversion to any hospital, trauma  
14 center or regional trauma center, which provide that a  
15 person shall not be transported to a facility other than  
16 the nearest hospital, regional trauma center or trauma  
17 center unless the medical benefits to the patient  
18 reasonably expected from the provision of appropriate  
19 medical treatment at a more distant facility outweigh the  
20 increased risks to the patient from transport to the more  
21 distant facility, or the transport is in accordance with  
22 the System's protocols for patient choice or refusal.

23 (6) Require that the EMS Medical Director of an ILS or  
24 ALS level EMS System be a physician licensed to practice  
25 medicine in all of its branches in Illinois, and certified  
26 by the American Board of Emergency Medicine or the American

1 Board of Osteopathic Emergency Medicine, and that the EMS  
2 Medical Director of a BLS level EMS System be a physician  
3 licensed to practice medicine in all of its branches in  
4 Illinois, with regular and frequent involvement in  
5 pre-hospital emergency medical services. In addition, all  
6 EMS Medical Directors shall:

7 (A) Have experience on an EMS vehicle at the  
8 highest level available within the System, or make  
9 provision to gain such experience within 12 months  
10 prior to the date responsibility for the System is  
11 assumed or within 90 days after assuming the position;

12 (B) Be thoroughly knowledgeable of all skills  
13 included in the scope of practices of all levels of EMS  
14 personnel within the System;

15 (C) Have or make provision to gain experience  
16 instructing students at a level similar to that of the  
17 levels of EMS personnel within the System; and

18 (D) For ILS and ALS EMS Medical Directors,  
19 successfully complete a Department-approved EMS  
20 Medical Director's Course.

21 (7) Prescribe statewide EMS data elements to be  
22 collected and documented by providers in all EMS Systems  
23 for all emergency and non-emergency medical services, with  
24 a one-year phase-in for commencing collection of such data  
25 elements.

26 (8) Define, through rules adopted pursuant to this Act,

1 the terms "Resource Hospital", "Associate Hospital",  
2 "Participating Hospital", "Basic Emergency Department",  
3 "Standby Emergency Department", "Comprehensive Emergency  
4 Department", "EMS Medical Director", "EMS Administrative  
5 Director", and "EMS System Coordinator".

6 (A) Upon the effective date of this amendatory Act  
7 of 1995, all existing Project Medical Directors shall  
8 be considered EMS Medical Directors, and all persons  
9 serving in such capacities on the effective date of  
10 this amendatory Act of 1995 shall be exempt from the  
11 requirements of paragraph (7) of this subsection;

12 (B) Upon the effective date of this amendatory Act  
13 of 1995, all existing EMS System Project Directors  
14 shall be considered EMS Administrative Directors.

15 (9) Investigate the circumstances that caused a  
16 hospital in an EMS system to go on bypass status to  
17 determine whether that hospital's decision to go on bypass  
18 status was reasonable. The Department may impose  
19 sanctions, as set forth in Section 3.140 of the Act, upon a  
20 Department determination that the hospital unreasonably  
21 went on bypass status in violation of the Act.

22 (10) Evaluate the capacity and performance of any  
23 freestanding emergency center established under Section  
24 32.5 of this Act in meeting emergency medical service needs  
25 of the public, including compliance with applicable  
26 emergency medical standards and assurance of the

1           availability of and immediate access to the highest quality  
2           of medical care possible.

3           (Source: P.A. 91-357, eff. 7-29-99.)

4           (210 ILCS 50/32.5)

5           Sec. 32.5. Freestanding Emergency Center.

6           (a) Until June 30, 2009, the ~~The~~ Department shall issue an  
7           annual Freestanding Emergency Center (FEC) license to any  
8           facility that:

9                   (1) is located: (A) ~~(i) (A)~~ in a municipality with a  
10                   population of 75,000 or fewer inhabitants; (B) within 20 ~~15~~  
11                   miles of the hospital that owns or controls the FEC; and  
12                   (C) within 20 ~~10~~ miles of the Resource Hospital affiliated  
13                   with the FEC as part of the EMS System; ~~or (ii) (A) in a~~  
14                   ~~municipality that has a hospital that has been providing~~  
15                   ~~emergency services but is expected to close by the end of~~  
16                   ~~1997 and (B) in a county with a population of more than~~  
17                   ~~350,000 but less than 525,000 inhabitants;~~

18                   (2) is wholly owned or controlled by an Associate or  
19                   Resource Hospital, but is not a part of the hospital's  
20                   physical plant;

21                   (3) meets the standards for licensed FECs, adopted by  
22                   rule of the Department, including, but not limited to:

23                           (A) facility design, specification, operation, and  
24                           maintenance standards;

25                           (B) equipment standards; and



1           (C) the number and qualifications of emergency  
2           medical personnel and other staff, which must include  
3           at least one board certified emergency physician  
4           present at the FEC 24 hours per day.

5           (4) limits its participation in the EMS System strictly  
6           to receiving a limited number of BLS runs by emergency  
7           medical vehicles according to protocols developed by the  
8           Resource Hospital within the FEC's designated EMS System  
9           and approved by the Project Medical Director and the  
10          Department;

11          (5) provides comprehensive emergency treatment  
12          services, as defined in the rules adopted by the Department  
13          pursuant to the Hospital Licensing Act, 24 hours per day,  
14          on an outpatient basis;

15          (6) provides an ambulance and maintains on site  
16          ambulance services staffed with paramedics 24 hours per  
17          day;

18          (7) maintains helicopter landing capabilities approved  
19          by appropriate State and federal authorities;

20          (8) complies with all State and federal patient rights  
21          provisions, including, but not limited to, the Emergency  
22          Medical Treatment Act and the federal Emergency Medical  
23          Treatment and Active Labor Act;

24          (9) maintains a communications system that is fully  
25          integrated with its Resource Hospital within the FEC's  
26          designated EMS System;

1 (10) reports to the Department any patient transfers  
2 from the FEC to a hospital within 48 hours of the transfer  
3 plus any other data determined to be relevant by the  
4 Department;

5 (11) submits to the Department, on a quarterly basis,  
6 the FEC's morbidity and mortality rates for patients  
7 treated at the FEC and other data determined to be relevant  
8 by the Department;

9 (12) does not describe itself or hold itself out to the  
10 general public as a full service hospital or hospital  
11 emergency department in its advertising or marketing  
12 activities;

13 (13) complies with any other rules adopted by the  
14 Department under this Act that relate to FECs;

15 (14) passes the Department's site inspection for  
16 compliance with the FEC requirements of this Act;

17 (15) submits a copy of the ~~a certificate of need or~~  
18 ~~other~~ permit issued by the Illinois Health Facilities  
19 Planning Board indicating that the facility has complied  
20 with the Illinois Health Facilities Planning Act with  
21 respect to the health services to be provided at the  
22 facility ~~that will house the proposed FEC complies with~~  
23 ~~State health planning laws; provided, however, that the~~  
24 ~~Illinois Health Facilities Planning Board shall waive this~~  
25 ~~certificate of need or permit requirement for any proposed~~  
26 ~~FEC that, as of the effective date of this amendatory Act~~

1 ~~of 1996, meets the criteria for providing comprehensive~~  
2 ~~emergency treatment services, as defined by the rules~~  
3 ~~promulgated under the Hospital Licensing Act, but is not a~~  
4 ~~licensed hospital;~~

5 (16) submits an application for designation as an FEC  
6 in a manner and form prescribed by the Department by rule;  
7 and

8 (17) pays the annual license fee as determined by the  
9 Department by rule. ~~;~~ and

10 ~~(18) participated in the demonstration program.~~

11 (b) The Department shall:

12 (1) annually inspect facilities of initial FEC  
13 applicants and licensed FECs, and issue annual licenses to  
14 or annually relicense FECs that satisfy the Department's  
15 licensure requirements as set forth in subsection (a);

16 (2) suspend, revoke, refuse to issue, or refuse to  
17 renew the license of any FEC, after notice and an  
18 opportunity for a hearing, when the Department finds that  
19 the FEC has failed to comply with the standards and  
20 requirements of the Act or rules adopted by the Department  
21 under the Act;

22 (3) issue an Emergency Suspension Order for any FEC  
23 when the Director or his or her designee has determined  
24 that the continued operation of the FEC poses an immediate  
25 and serious danger to the public health, safety, and  
26 welfare. An opportunity for a hearing shall be promptly

1           initiated after an Emergency Suspension Order has been  
2           issued; and

3                   (4) adopt rules as needed to implement this Section.

4           (Source: P.A. 93-372, eff. 1-1-04.)

5           Section 99. Effective date. This Act takes effect upon  
6           becoming law.