

1 AN ACT concerning health care.

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 and 19.6 as follows:

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

7 (Section scheduled to be repealed on April 1, 2007)

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;

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

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

8 7. An institution, place, building, or room that is
9 used for the delivery of health care and exceeds the
10 capital expenditure minimum, excluding any institution,
11 place, building, or room that is wholly owned by Illinois
12 licensed physicians who practice at the institution,
13 place, building, or room; and

14 8. Freestanding diagnostic imaging centers that are
15 not located in or on the premises of an institution, place,
16 building, or agency required to be licensed pursuant to the
17 Hospital Licensing Act, excluding any center that is wholly
18 owned by Illinois licensed physicians who practice at the
19 center.

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

23 No facility licensed under the Supportive Residences
24 Licensing Act or the Assisted Living and Shared Housing Act
25 shall be subject to the provisions of this Act.

26 A facility designated as a supportive living facility that

1 is in good standing with the program established under Section
2 5-5.01a of the Illinois Public Aid Code shall not be subject to
3 the provisions of this Act.

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

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

22 This Act shall not apply to the closure of an entity or a
23 portion of an entity licensed under the Nursing Home Care Act
24 that elects to convert, in whole or in part, to an assisted
25 living or shared housing establishment licensed under the
26 Assisted Living and Shared Housing Act.

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

21 "Person" means any one or more natural persons, legal
22 entities, governmental bodies other than federal, or any
23 combination thereof.

24 "Consumer" means any person other than a person (a) whose
25 major occupation currently involves or whose official capacity
26 within the last 12 months has involved the providing,

1 administering or financing of any type of health care facility,
2 (b) who is engaged in health research or the teaching of
3 health, (c) who has a material financial interest in any
4 activity which involves the providing, administering or
5 financing of any type of health care facility, or (d) who is or
6 ever has been a member of the immediate family of the person
7 defined by (a), (b), or (c).

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

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

24 "Establish" means the construction of a health care
25 facility or the replacement of an existing facility on another
26 site.

1 "Freestanding diagnostic imaging center" is a facility, or
2 part of a facility, at which sophisticated radiological
3 services are provided, which, as defined by the State Board by
4 rule, shall include, but not be limited to, magnetic resonance
5 imaging, nuclear medicine, computerized axial tomography, or
6 positron emission tomography. Sophisticated radiological
7 services do not include routine X-ray, mammography, or
8 ultrasound services.

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

23 "Capital Expenditure" means an expenditure: (A) made by or
24 on behalf of a health care facility (as such a facility is
25 defined in this Act); and (B) which under generally accepted
26 accounting principles is not properly chargeable as an expense

1 of operation and maintenance, or is made to obtain by lease or
2 comparable arrangement any facility or part thereof or any
3 equipment for a facility or part; and which exceeds the capital
4 expenditure minimum.

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

19 "Capital expenditure minimum" means \$6,000,000, which
20 shall be annually adjusted to reflect the increase in
21 construction costs due to inflation, for major medical
22 equipment and for all other capital expenditures; provided,
23 however, that when a capital expenditure is for the
24 construction or modification of a health and fitness center,
25 "capital expenditure minimum" means the capital expenditure
26 minimum for all other capital expenditures in effect on March

1 1, 2000, which shall be annually adjusted to reflect the
2 increase in construction costs due to inflation.

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

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

1 word "area" may be used synonymously with the term "areawide".

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

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

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

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

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

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

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

22 "Comprehensive health planning" means health planning
23 concerned with the total population and all health and
24 associated problems that affect the well-being of people and
25 that encompasses health services, health manpower, and health
26 facilities; and the coordination among these and with those

1 social, economic, and environmental factors that affect
2 health.

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

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

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

1 means of transferring control.

2 "Related person" means any person that: (i) is at least 50%
3 owned, directly or indirectly, by either the health care
4 facility or a person owning, directly or indirectly, at least
5 50% of the health care facility; or (ii) owns, directly or
6 indirectly, at least 50% of the health care facility.

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

10 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
11 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; 94-342, eff.
12 7-26-05; revised 8-21-06.)

13 (20 ILCS 3960/19.6)

14 (Section scheduled to be repealed on April 1, 2007)

15 Sec. 19.6. Repeal. This Act is repealed on July 1, 2012
16 ~~April 1, 2007~~.

17 (Source: P.A. 93-41, eff. 6-27-03; 93-889, eff. 8-9-04; 94-983,
18 eff. 6-30-06.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.