

SB2168



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2168

Introduced 2/14/2008, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3

from Ch. 111 1/2, par. 1153

Amends the Illinois Health Facilities Planning Act. Makes a technical change in a Section concerning definitions.

LRB095 18877 BDD 45019 b

A BILL FOR

1 AN ACT concerning State government.

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 as follows:

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

7 (Section scheduled to be repealed on August 31, 2008)

8 Sec. 3. Definitions. As used in this Act:

9 "Health care facilities" means and includes the ~~the~~
10 following 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 4. Hospitals, nursing homes, ambulatory surgical
19 treatment centers, or kidney disease treatment centers
20 maintained by the State or any department or agency
21 thereof;

22 5. Kidney disease treatment centers, including a
23 free-standing hemodialysis unit required to be licensed

1 under the End Stage Renal Disease Facility Act; and

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

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

9 No facility licensed under the Supportive Residences
10 Licensing Act or the Assisted Living and Shared Housing Act
11 shall be subject to the provisions of this Act.

12 A facility designated as a supportive living facility that
13 is in good standing with the program established under Section
14 5-5.01a of the Illinois Public Aid Code shall not be subject to
15 the provisions of this Act.

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

22 This Act does not apply to a dialysis facility that
23 provides only dialysis training, support, and related services
24 to individuals with end stage renal disease who have elected to
25 receive home dialysis. This Act does not apply to a dialysis
26 unit located in a licensed nursing home that offers or provides

1 dialysis-related services to residents with end stage renal
2 disease who have elected to receive home dialysis within the
3 nursing home. The Board, however, may require these dialysis
4 facilities and licensed nursing homes to report statistical
5 information on a quarterly basis to the Board to be used by the
6 Board to conduct analyses on the need for proposed kidney
7 disease treatment centers.

8 This Act shall not apply to the closure of an entity or a
9 portion of an entity licensed under the Nursing Home Care Act,
10 with the exceptions of facilities operated by a county or
11 Illinois Veterans Homes, that elects to convert, in whole or in
12 part, to an assisted living or shared housing establishment
13 licensed under the Assisted Living and Shared Housing Act.

14 This Act does not apply to any change of ownership of a
15 healthcare facility that is licensed under the Nursing Home
16 Care Act, with the exceptions of facilities operated by a
17 county or Illinois Veterans Homes. Changes of ownership of
18 facilities licensed under the Nursing Home Care Act must meet
19 the requirements set forth in Sections 3-101 through 3-119 of
20 the Nursing Home Care Act.

21 With the exception of those health care facilities
22 specifically included in this Section, nothing in this Act
23 shall be intended to include facilities operated as a part of
24 the practice of a physician or other licensed health care
25 professional, whether practicing in his individual capacity or
26 within the legal structure of any partnership, medical or

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

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

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

1 defined by (a), (b), or (c).

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

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

18 "Establish" means the construction of a health care
19 facility or the replacement of an existing facility on another
20 site.

21 "Major medical equipment" means medical equipment which is
22 used for the provision of medical and other health services and
23 which costs in excess of the capital expenditure minimum,
24 except that such term does not include medical equipment
25 acquired by or on behalf of a clinical laboratory to provide
26 clinical laboratory services if the clinical laboratory is

1 independent of a physician's office and a hospital and it has
2 been determined under Title XVIII of the Social Security Act to
3 meet the requirements of paragraphs (10) and (11) of Section
4 1861(s) of such Act. In determining whether medical equipment
5 has a value in excess of the capital expenditure minimum, the
6 value of studies, surveys, designs, plans, working drawings,
7 specifications, and other activities essential to the
8 acquisition of such equipment shall be included.

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

17 For the purpose of this paragraph, the cost of any studies,
18 surveys, designs, plans, working drawings, specifications, and
19 other activities essential to the acquisition, improvement,
20 expansion, or replacement of any plant or equipment with
21 respect to which an expenditure is made shall be included in
22 determining if such expenditure exceeds the capital
23 expenditures minimum. Donations of equipment or facilities to a
24 health care facility which if acquired directly by such
25 facility would be subject to review under this Act shall be
26 considered capital expenditures, and a transfer of equipment or

1 facilities for less than fair market value shall be considered
2 a capital expenditure for purposes of this Act if a transfer of
3 the equipment or facilities at fair market value would be
4 subject to review.

5 "Capital expenditure minimum" means \$6,000,000, which
6 shall be annually adjusted to reflect the increase in
7 construction costs due to inflation, for major medical
8 equipment and for all other capital expenditures; provided,
9 however, that when a capital expenditure is for the
10 construction or modification of a health and fitness center,
11 "capital expenditure minimum" means the capital expenditure
12 minimum for all other capital expenditures in effect on March
13 1, 2000, which shall be annually adjusted to reflect the
14 increase in construction costs due to inflation.

15 "Non-clinical service area" means an area (i) for the
16 benefit of the patients, visitors, staff, or employees of a
17 health care facility and (ii) not directly related to the
18 diagnosis, treatment, or rehabilitation of persons receiving
19 services from the health care facility. "Non-clinical service
20 areas" include, but are not limited to, chapels; gift shops;
21 news stands; computer systems; tunnels, walkways, and
22 elevators; telephone systems; projects to comply with life
23 safety codes; educational facilities; student housing;
24 patient, employee, staff, and visitor dining areas;
25 administration and volunteer offices; modernization of
26 structural components (such as roof replacement and masonry

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

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

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

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

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

26 "Physician" means a person licensed to practice in

1 accordance with the Medical Practice Act of 1987, as amended.

2 "Licensed health care professional" means a person
3 licensed to practice a health profession under pertinent
4 licensing statutes of the State of Illinois.

5 "Director" means the Director of the Illinois Department of
6 Public Health.

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

8 "Comprehensive health planning" means health planning
9 concerned with the total population and all health and
10 associated problems that affect the well-being of people and
11 that encompasses health services, health manpower, and health
12 facilities; and the coordination among these and with those
13 social, economic, and environmental factors that affect
14 health.

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

17 "Out-of-state facility" means a person that is both (i)
18 licensed as a hospital or as an ambulatory surgery center under
19 the laws of another state or that qualifies as a hospital or an
20 ambulatory surgery center under regulations adopted pursuant
21 to the Social Security Act and (ii) not licensed under the
22 Ambulatory Surgical Treatment Center Act, the Hospital
23 Licensing Act, or the Nursing Home Care Act. Affiliates of
24 out-of-state facilities shall be considered out-of-state
25 facilities. Affiliates of Illinois licensed health care
26 facilities 100% owned by an Illinois licensed health care

1 facility, its parent, or Illinois physicians licensed to
2 practice medicine in all its branches shall not be considered
3 out-of-state facilities. Nothing in this definition shall be
4 construed to include an office or any part of an office of a
5 physician licensed to practice medicine in all its branches in
6 Illinois that is not required to be licensed under the
7 Ambulatory Surgical Treatment Center Act.

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

14 "Related person" means any person that: (i) is at least 50%
15 owned, directly or indirectly, by either the health care
16 facility or a person owning, directly or indirectly, at least
17 50% of the health care facility; or (ii) owns, directly or
18 indirectly, at least 50% of the health care facility.

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

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

25 (Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07;
26 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; revised 10-30-07.)