

1 AMENDMENT TO SENATE BILL 1798

2 AMENDMENT NO. _____. Amend Senate Bill 1798 by replacing
3 everything after the enacting clause with the following:

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) A Any hospital licensed under this Act or any
9 hospital organized under the University of Illinois Hospital
10 Act shall, prior to the granting of any medical staff
11 privileges to an applicant, or renewing a current medical
12 staff member's privileges, request of the Director of
13 Professional Regulation information concerning the licensure
14 status and any disciplinary action taken against the
15 applicant's or medical staff member's license, except for
16 medical personnel who enter a hospital to obtain organs and
17 tissues for transplant from a deceased donor in accordance
18 with the Uniform Anatomical Gift Act. The Director of
19 Professional Regulation shall transmit, in writing and in a
20 timely fashion, such information regarding the license of the
21 applicant or the medical staff member, including the record
22 of imposition of any periods of supervision or monitoring as

1 a result of alcohol or substance abuse, as provided by
2 Section 23 of the Medical Practice Act of 1987, and such
3 information as may have been submitted to the Department
4 indicating that the application or medical staff member has
5 been denied, or has surrendered, medical staff privileges at
6 a hospital licensed under this Act, or any equivalent
7 facility in another state or territory of the United States.
8 The Director of Professional Regulation shall define by rule
9 the period for timely response to such requests.

10 No transmittal of information by the Director of
11 Professional Regulation, under this Section shall be to other
12 than the president, chief operating officer, chief
13 administrative officer, or chief of the medical staff of a
14 hospital licensed under this Act, a hospital organized under
15 the University of Illinois Hospital Act, or a hospital
16 operated by the United States, or any of its
17 instrumentalities. The information so transmitted shall be
18 afforded the same status as is information concerning medical
19 studies by Part 21 of Article VIII of the Code of Civil
20 Procedure, as now or hereafter amended.

21 (b) All hospitals licensed under this Act, except county
22 hospitals as defined in subsection (c) of Section 15-1 of the
23 Illinois Public Aid Code, shall comply with, and the medical
24 staff bylaws of these hospitals shall include rules
25 consistent with, the provisions of this Section in granting,
26 limiting, renewing, or denying medical staff membership and
27 clinical staff privileges. Hospitals that require medical
28 staff members to possess faculty status with a specific
29 institution of higher education are not required to comply
30 with subsection (1) below when the physician does not possess
31 faculty status.

32 (1) Minimum procedures for pre-applicants and
33 applicants for medical staff membership shall include the
34 following:

1 (A) Written procedures relating to the
2 acceptance and processing of pre-applicants or
3 applicants for medical staff membership, which
4 should be contained in medical staff bylaws.

5 (B) Written procedures to be followed in
6 determining a pre-applicant's or an applicant's
7 qualifications for being granted medical staff
8 membership and privileges.

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

12 (D) An evaluation of a pre-applicant's or an
13 applicant's current health status and current
14 license status in Illinois.

15 (E) A written response to each pre-applicant
16 or applicant that explains the reason or reasons for
17 any adverse decision (including all reasons based in
18 whole or in part on the applicant's medical
19 qualifications or any other basis, including
20 economic factors).

21 (2) Minimum procedures with respect to medical
22 staff and clinical privilege determinations concerning
23 current members of the medical staff shall include the
24 following:

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

26 (B) An explanation of the reasons for an
27 adverse decision including all reasons based on the
28 quality of medical care or any other basis,
29 including economic factors.

30 (C) A statement of the medical staff member's
31 right to request a fair hearing on the adverse
32 decision before a hearing panel whose membership is
33 mutually agreed upon by the medical staff and the
34 hospital governing board. The hearing panel shall

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

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

19 (ii) Nothing in this subparagraph (C)
20 limits a medical staff's right to permit, in
21 the medical staff bylaws, summary suspension of
22 membership or clinical privileges in designated
23 administrative circumstances as specifically
24 approved by the medical staff. This bylaw
25 provision must specifically describe both the
26 administrative circumstance that can result in
27 a summary suspension and the length of the
28 summary suspension. The opportunity for a fair
29 hearing is required for any administrative
30 summary suspension. Any requested hearing must
31 be commenced within 15 days after the summary
32 suspension and completed without delay. Adverse
33 decisions other than suspension or other
34 restrictions on the treatment or admission of

1 patients may be imposed summarily and without a
2 hearing under designated administrative
3 circumstances as specifically provided for in
4 the medical staff bylaws as approved by the
5 medical staff.

6 (iii) If a hospital exercises its option
7 to enter into an exclusive contract and that
8 contract results in the total or partial
9 termination or reduction of medical staff
10 membership or clinical privileges of a current
11 medical staff member, the hospital shall
12 provide the affected medical staff member 60
13 days prior notice of the effect on his or her
14 medical staff membership or privileges. An
15 affected medical staff member desiring a
16 hearing under subparagraph (C) of this
17 paragraph (2) must request the hearing within
18 14 days after the date he or she is so
19 notified. The requested hearing shall be
20 commenced and completed (with a report and
21 recommendation to the affected medical staff
22 member, hospital governing board, and medical
23 staff) within 30 days after the date of the
24 medical staff member's request. If agreed upon
25 by both the medical staff and the hospital
26 governing board, the medical staff bylaws may
27 provide for longer time periods.

28 (D) A statement of the member's right to
29 inspect all pertinent information in the hospital's
30 possession with respect to the decision.

31 (E) A statement of the member's right to
32 present witnesses and other evidence at the hearing
33 on the decision.

34 (F) A written notice and written explanation

1 of the decision resulting from the hearing.

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

4 (G) Notice given 15 days before implementation
5 of an adverse medical staff membership or clinical
6 privileges decision based substantially on economic
7 factors. This notice shall be given after the
8 medical staff member exhausts all applicable
9 procedures under this Section, including item (iii)
10 of subparagraph (C) of this paragraph (2), and under
11 the medical staff bylaws in order to allow
12 sufficient time for the orderly provision of patient
13 care.

14 (H) Nothing in this paragraph (2) of this
15 subsection (b) limits a medical staff member's right
16 to waive, in writing, the rights provided in
17 subparagraphs (A) through (G) of this paragraph (2)
18 of this subsection (b) upon being granted the
19 written exclusive right to provide particular
20 services at a hospital, either individually or as a
21 member of a group. If an exclusive contract is
22 signed by a representative of a group of physicians,
23 a waiver contained in the contract shall apply to
24 all members of the group unless stated otherwise in
25 the contract.

26 (3) Every adverse medical staff membership and
27 clinical privilege decision based substantially on
28 economic factors shall be reported to the Hospital
29 Licensing Board before the decision takes effect. These
30 reports shall not be disclosed in any form that reveals
31 the identity of any hospital or physician. These reports
32 shall be utilized to study the effects that hospital
33 medical staff membership and clinical privilege decisions
34 based upon economic factors have on access to care and

1 the availability of physician services. The Hospital
2 Licensing Board shall submit an initial study to the
3 Governor and the General Assembly by January 1, 1996, and
4 subsequent reports shall be submitted periodically
5 thereafter.

6 (4) As used in this Section:

7 "Adverse decision" means a decision reducing,
8 restricting, suspending, revoking, denying, or not
9 renewing medical staff membership or clinical privileges.

10 "Economic factor" means any information or reasons
11 for decisions unrelated to quality of care or
12 professional competency.

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

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

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

27 (c) All hospitals shall consult with the medical staff
28 prior to closing membership in the entire or any portion of
29 the medical staff or a department. If the hospital closes
30 membership in the medical staff, any portion of the medical
31 staff, or the department over the objections of the medical
32 staff, then the hospital shall provide a detailed written
33 explanation for the decision to the medical staff 10 days
34 prior to the effective date of any closure. No applications

1 need to be provided when membership in the medical staff or
2 any relevant portion of the medical staff is closed.

3 (Source: P.A. 90-14, eff. 7-1-97; 90-149, eff. 1-1-98;

4 90-655, eff. 7-30-98; 91-166, eff. 1-1-00.)".