

1 AN ACT concerning health facilities.

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
10 shall, prior to the granting of any medical staff privileges
11 to an applicant, or renewing a current medical staff member's
12 privileges, request of the Director of Professional
13 Regulation information concerning the licensure status and
14 any disciplinary action taken against the applicant's or
15 medical staff member's license, except for medical personnel
16 who enter a hospital to obtain organs and tissues for
17 transplant from a deceased donor in accordance with the
18 Uniform Anatomical Gift Act. The Director of Professional
19 Regulation shall transmit, in writing and in a timely
20 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
23 a result of alcohol or substance abuse, as provided by
24 Section 23 of the Medical Practice Act of 1987, and such
25 information as may have been submitted to the Department
26 indicating that the application or medical staff member has
27 been denied, or has surrendered, medical staff privileges at
28 a hospital licensed under this Act, or any equivalent
29 facility in another state or territory of the United States.
30 The Director of Professional Regulation shall define by rule
31 the period for timely response to such requests.

1 No transmittal of information by the Director of
2 Professional Regulation, under this Section shall be to other
3 than the president, chief operating officer, chief
4 administrative officer, or chief of the medical staff of a
5 hospital licensed under this Act, a hospital organized under
6 the University of Illinois Hospital Act, or a hospital
7 operated by the United States, or any of its
8 instrumentalities. The information so transmitted shall be
9 afforded the same status as is information concerning medical
10 studies by Part 21 of Article VIII of the Code of Civil
11 Procedure, as now or hereafter amended.

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

23 (1) Minimum procedures for pre-applicants and
24 applicants for medical staff membership shall include the
25 following:

26 (A) Written procedures relating to the
27 acceptance and processing of pre-applicants or
28 applicants for medical staff membership, which
29 should be contained in medical staff bylaws.

30 (B) Written procedures to be followed in
31 determining a pre-applicant's or an applicant's
32 qualifications for being granted medical staff
33 membership and privileges.

34 (C) Written criteria to be followed in

1 evaluating a pre-applicant's or an applicant's
2 qualifications.

3 (D) An evaluation of a pre-applicant's or an
4 applicant's current health status and current
5 license status in Illinois.

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

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

16 (A) A written notice of an adverse decision
17 subject to a fair hearing under this paragraph (2).

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

22 (C) A statement of the medical staff member's
23 right to request a fair hearing on the adverse
24 decision before a hearing panel whose membership is
25 mutually agreed upon by the medical staff and the
26 hospital governing board. The hearing panel shall
27 have independent authority to recommend action to
28 the hospital governing board. Upon the request of
29 the medical staff member or the hospital governing
30 board, the hearing panel shall make findings
31 concerning the nature of each basis for any adverse
32 decision recommended to and accepted by the hospital
33 governing board.

34 (i) Nothing in this subparagraph (C)

1 limits a hospital's or medical staff's right to
2 summarily suspend, without a prior hearing, a
3 person's medical staff membership or clinical
4 privileges if the continuation of practice of a
5 medical staff member constitutes an immediate
6 danger to the public, including patients,
7 visitors, and hospital employees and staff. A
8 fair hearing shall be commenced within 15 days
9 after the suspension and completed without
10 delay.

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

32 (iii) If a hospital exercises its option
33 to enter into an exclusive contract and that
34 contract results in the total or partial

1 termination or reduction of medical staff
2 membership or clinical privileges of a current
3 medical staff member, the hospital shall
4 provide the affected medical staff member 60
5 days prior notice of the effect on his or her
6 medical staff membership or privileges. An
7 affected medical staff member desiring a
8 hearing under subparagraph (C) of this
9 paragraph (2) must request the hearing within
10 14 days after the date he or she is so
11 notified. The requested hearing shall be
12 commenced and completed (with a report and
13 recommendation to the affected medical staff
14 member, hospital governing board, and medical
15 staff) within 30 days after the date of the
16 medical staff member's request. If agreed upon
17 by both the medical staff and the hospital
18 governing board, the medical staff bylaws may
19 provide for longer time periods.

20 (D) A statement of the member's right to
21 inspect all pertinent information in the hospital's
22 possession with respect to the decision.

23 (E) A statement of the member's right to
24 present witnesses and other evidence at the hearing
25 on the decision.

26 (F) A written notice and written explanation
27 of the decision resulting from the hearing.

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

30 (G) Notice given 15 days before implementation
31 of an adverse medical staff membership or clinical
32 privileges decision based substantially on economic
33 factors. This notice shall be given after the
34 medical staff member exhausts all applicable

1 procedures under this Section, including item (iii)
2 of subparagraph (C) of this paragraph (2), and under
3 the medical staff bylaws in order to allow
4 sufficient time for the orderly provision of patient
5 care.

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

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

32 (4) As used in this Section:

33 "Adverse decision" means a decision reducing,
34 restricting, suspending, revoking, denying, or not

1 renewing medical staff membership or clinical privileges.

2 "Economic factor" means any information or reasons
3 for decisions unrelated to quality of care or
4 professional competency.

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

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

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

19 (c) All hospitals shall consult with the medical staff
20 prior to closing membership in the entire or any portion of
21 the medical staff or a department. If the hospital closes
22 membership in the medical staff, any portion of the medical
23 staff, or the department over the objections of the medical
24 staff, then the hospital shall provide a detailed written
25 explanation for the decision to the medical staff 10 days
26 prior to the effective date of any closure. No applications
27 need to be provided when membership in the medical staff or
28 any relevant portion of the medical staff is closed.

29 (Source: P.A. 90-14, eff. 7-1-97; 90-149, eff. 1-1-98;
30 90-655, eff. 7-30-98; 91-166, eff. 1-1-00.)