# HB3657

LRB10213678RJFF19028b

## 102ND GENERAL ASSEMBLY

## State of Illinois

## 2021 and 2022

### HB3657

Introduced 2/22/2021, by Rep. Lamont J. Robinson, Jr.

## SYNOPSIS AS INTRODUCED:

See Index

Amends the Health Facilities Planning Act. Modifies provisions concerning Safety Net Impact Statements. Provides for Emergency Medicine and Trauma Systems Impact Statements and Maternal and Child Health Impact Statements. Provides further requirements concerning the discontinuance of a hospital facility or a category of service. Provides requirements for hospital closure during a pandemic. Provides for a right of action under the Act. Specifies and modifies penalties for a violation of the Act. Allows a health facility to be placed under receivership. Specifies further powers and duties of the Health Facilities and Services Review Board under the Act. Amends the Illinois Public Aid Code. Requires a general acute care hospital that ceases to provide hospital services before January 1, 2022 to pay specified amounts. Provides further requirements concerning the payments. Defines terms. Makes conforming and other changes. Effective immediately.

LRB102 13678 RJF 19028 b

A BILL FOR

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois, represented in the General Assembly:**

Section 5. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by renumbering Section 2310-223 as follows:

(20 ILCS 2310/2310-222)

Sec. 2310-222 ~~2310-223~~. Obstetric hemorrhage and hypertension training.

(a) As used in this Section, "birthing facility" means (1) a hospital, as defined in the Hospital Licensing Act, with more than one licensed obstetric bed or a neonatal intensive care unit; (2) a hospital operated by a State university; or (3) a birth center, as defined in the Alternative Health Care Delivery Act.

(b) The Department shall ensure that all birthing facilities conduct continuing education yearly for providers and staff of obstetric medicine and of the emergency department and other staff that may care for pregnant or postpartum women. The continuing education shall include yearly educational modules regarding management of severe maternal hypertension and obstetric hemorrhage for units that care for pregnant or postpartum women. Birthing facilities

must demonstrate compliance with these education and training requirements.

(c) The Department shall collaborate with the Illinois Perinatal Quality Collaborative or its successor organization to develop an initiative to improve birth equity and reduce peripartum racial and ethnic disparities. The Department shall ensure that the initiative includes the development of best practices for implicit bias training and education in cultural competency to be used by birthing facilities in interactions between patients and providers. In developing the initiative, the Illinois Perinatal Quality Collaborative or its successor organization shall consider existing programs, such as the Alliance for Innovation on Maternal Health and the California Maternal Quality Collaborative's pilot work on improving birth equity. The Department shall support the initiation of a statewide perinatal quality improvement initiative in collaboration with birthing facilities to implement strategies to reduce peripartum racial and ethnic disparities and to address implicit bias in the health care system.

(d) The Department, in consultation with the Maternal Mortality Review Committee, shall make available to all birthing facilities best practices for timely identification of all pregnant and postpartum women in the emergency department and for appropriate and timely consultation of an obstetric provider to provide input on management and follow-up. Birthing facilities may use telemedicine for the

consultation.

(e) The Department may adopt rules for the purpose of implementing this Section.

(Source: P.A. 101-390, eff. 1-1-20; revised 10-7-19.)

Section 10. The Illinois Health Facilities Planning Act is amended by changing Sections 2, 3, 4, 5, 5.4, 6, 6.2, 8.5, 8.7, 12, 12.3, 12.4, 13.1, 14, and 14.1 and by adding Sections 5.5, 5.6, 6.05, 14.05, and 14.2 as follows:

(20 ILCS 3960/2) (from Ch. 111 1/2, par. 1152)

(Section scheduled to be repealed on December 31, 2029)

Sec. 2. Purpose of the Act. This Act shall establish a procedure (1) which requires a person establishing, constructing or modifying a health care facility, as herein defined, to have the qualifications, background, character and financial resources to adequately provide a proper service for the community; (2) that promotes the orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of such facilities; (3) that promotes health equity including equitable access to quality health care through the development and preservation of safety net services; and (4) ~~(3)~~ that promotes planning for and development of health care facilities needed for comprehensive health care especially in areas where the health planning process has identified unmet needs.

The changes made to this Act by this amendatory Act of the 96th General Assembly are intended to accomplish the following objectives: to improve the financial ability of the public to obtain necessary health services; to establish an orderly and comprehensive health care delivery system that will guarantee the availability of quality health care to the general public; to maintain and improve the provision of essential health care services and increase the accessibility of those services to the medically underserved and indigent; to assure that the reduction and closure of health care services or facilities is performed in an orderly and timely manner, and that these actions are deemed to be in the best interests of the public; and to assess the financial burden to patients caused by unnecessary health care construction and modification. Evidence-based assessments, projections and decisions will be applied regarding capacity, quality, value and equity in the delivery of health care services in Illinois. The integrity of the Certificate of Need process is ensured through revised ethics and communications procedures. Cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process.

The changes made to this Act by this amendatory Act of the 102nd General Assembly recognize a persistent problem of hospital service cuts and facility closures. These harm the health care safety net in Illinois and have negatively impacted access to hospital services in communities of color

in particular. The changes are intended to accomplish the objective of protecting the public interest in equitable access to health care services.

(Source: P.A. 99-527, eff. 1-1-17.)

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

(Section scheduled to be repealed on December 31, 2029)

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

"Health care facilities" means and includes the following facilities, organizations, and related persons:

(1) An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act.

(2) An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act.

(3) Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act.

(A) If a demonstration project under the Nursing Home Care Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.

(B) Except as provided in item (A) of this subsection, this Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing

Home Care Act.

(3.5) Skilled and intermediate care facilities licensed under the ID/DD Community Care Act or the MC/DD Act. No permit or exemption is required for a facility licensed under the ID/DD Community Care Act or the MC/DD Act prior to the reduction of the number of beds at a facility. If there is a total reduction of beds at a facility licensed under the ID/DD Community Care Act or the MC/DD Act, this is a discontinuation or closure of the facility. If a facility licensed under the ID/DD Community Care Act or the MC/DD Act reduces the number of beds or discontinues the facility, that facility must notify the Board as provided in Section 14.1 of this Act.

(3.7) Facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013.

(4) Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof.

(5) Kidney disease treatment centers, including a free-standing hemodialysis unit required to meet the requirements of 42 CFR 494 in order to be certified for participation in Medicare and Medicaid under Titles XVIII and XIX of the federal Social Security Act.

(A) This Act does not apply to a dialysis facility that provides only dialysis training, support, and

related services to individuals with end stage renal disease who have elected to receive home dialysis.

(B) This Act does not apply to a dialysis unit located in a licensed nursing home that offers or provides dialysis-related services to residents with end stage renal disease who have elected to receive home dialysis within the nursing home.

(C) The Board, however, may require dialysis facilities and licensed nursing homes under items (A) and (B) of this subsection to report statistical information on a quarterly basis to the Board to be used by the Board to conduct analyses on the need for proposed kidney disease treatment centers.

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

(7) An institution, place, building, or room used for provision of a health care category of service, including, but not limited to, cardiac catheterization and open heart surgery.

(8) An institution, place, building, or room housing major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum.

"Health care facilities" does not include the following

entities or facility transactions:

(1) Federally-owned facilities.

(2) Facilities used solely for healing by prayer or spiritual means.

(3) An existing facility located on any campus facility as defined in Section 5-5.8b of the Illinois Public Aid Code, provided that the campus facility encompasses 30 or more contiguous acres and that the new or renovated facility is intended for use by a licensed residential facility.

(4) Facilities licensed under the Supportive Residences Licensing Act or the Assisted Living and Shared Housing Act.

(5) Facilities designated as supportive living facilities that are in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code.

(6) Facilities established and operating under the Alternative Health Care Delivery Act as a children's community-based health care center alternative health care model demonstration program or as an Alzheimer's Disease Management Center alternative health care model demonstration program.

(7) The closure of an entity or a portion of an entity licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD

Community Care Act, or the MC/DD Act, with the exception of facilities operated by a county or Illinois Veterans Homes, that elect to convert, in whole or in part, to an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act and with the exception of a facility licensed under the Specialized Mental Health Rehabilitation Act of 2013 in connection with a proposal to close a facility and re-establish the facility in another location.

(8) Any change of ownership of a health care facility that is licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act, with the exception of facilities operated by a county or Illinois Veterans Homes. Changes of ownership of facilities licensed under the Nursing Home Care Act must meet the requirements set forth in Sections 3-101 through 3-119 of the Nursing Home Care Act.

(9) (Blank).

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

professional group. Further, this Act shall not apply to physicians or other licensed health care professional's practices where such practices are carried out in a portion of a health care facility under contract with such health care facility by a physician or by other licensed health care professionals, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional groups, unless the entity constructs, modifies, or establishes a health care facility as specifically defined in this Section. This Act shall apply to construction or modification and to establishment by such health care facility of such contracted portion which is subject to facility licensing requirements, irrespective of the party responsible for such action or attendant financial obligation.

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

"Consumer" means any person other than a person (a) whose major occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or financing of any type of health care facility, or (d) who is or

ever has been a member of the immediate family of the person defined by item (a), (b), or (c).

"State Board" or "Board" means the Health Facilities and Services Review Board.

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for (i) the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or (ii) a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under this Act. For the purposes of this paragraph and Act, any temporary suspension of a category of service by a hospital for a time period exceeding one month shall be considered a discontinuation of a category of service.

"Establish" means the construction of a health care facility or the replacement of an existing facility on another site or the initiation of a category of service.

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

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

For the purpose of this paragraph, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the

acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditures minimum. Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of this Act if a transfer of the equipment or facilities at fair market value would be subject to review.

"Capital expenditure minimum" means $11,500,000 for projects by hospital applicants, $6,500,000 for applicants for projects related to skilled and intermediate care long-term care facilities licensed under the Nursing Home Care Act, and $3,000,000 for projects by all other applicants, which shall be annually adjusted to reflect the increase in construction costs due to inflation, for major medical equipment and for all other capital expenditures.

"Financial commitment" means the commitment of at least 33% of total funds assigned to cover total project cost, which

occurs by the actual expenditure of 33% or more of the total project cost or the commitment to expend 33% or more of the total project cost by signed contracts or other legal means.

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

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health planning and for health service and having within it one or more local areas for health planning and health service. The

term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

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

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

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

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

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

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

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act.

Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

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

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

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

"Health disparities" means preventable differences in the burden of disease, injury, violence, or opportunities to

achieve optimal health that are experienced by socially disadvantaged populations.

"Health equity" means a process of assurance of the conditions for optimal health for all people through focused and ongoing societal effort valuing all individuals and populations equally, recognizing and rectifying historical injustices, and providing resources according to need.

"Safety net services" means services provided by health care providers or organizations that deliver health care services to persons with barriers to mainstream health care due to lack of insurance, inability to pay, special needs, ethnic or cultural characteristics, or geographic isolation, and those that deliver services to communities or populations suffering from health disparities including disparities in health status and outcomes due to differences in social, economic, environmental, or healthcare resources. Safety net service providers include, but are not limited to, hospitals and private practice physicians that provide charity care, school-based health centers, migrant health clinics, rural health clinics, federally qualified health centers, community health centers, public health departments, and community mental health centers.

"Safety net hospital" has the meaning ascribed to it under Section 5-5e.1 of the Illinois Public Aid Code.

"Emergency medical and trauma" means the emergency medical services, trauma services, and associated non-emergency

medical services planned and coordinated in accordance with the Emergency Medical Services (EMS) Systems Act.

"Perinatal and maternal care" means obstetric and neonatal services under Subpart O of Hospital Licensing Requirements, 77 IAC 250; resources and services associated with hospital perinatal care level designations under the Developmental Disability Prevention Act; and maternal care resources and services developed or identified under Sections 2310-222 and 2310-223 of the Department of Public Health Powers and Duties Law.

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

"Category of service" means a grouping by generic class of various types or levels of support functions, equipment, care, or treatment provided to patients or residents. Categories of service shall at minimum include ~~, including, but not limited to, classes such as~~ medical-surgical, pediatrics, obstetrics, intensive care, neonatal intensive care, acute mental illness, comprehensive physical rehabilitation, long-term acute care, ~~or~~ cardiac catheterization, open heart surgery, kidney transplantation, general long term nursing care, long term care for the developmentally disabled (adult), long term care for the developmentally disabled (children), chronic mental illness care, in-center hemodialysis, and non-hospital ambulatory surgery. A category of service may include

subcategories or levels of care that identify a particular degree or type of care within the category of service. Nothing in this definition shall be construed to include the practice of a physician or other licensed health care professional while functioning in an office providing for the care, diagnosis, or treatment of patients. A category of service that is subject to the Board's jurisdiction must be designated in rules adopted by the Board.

"State Board Staff Report" means the document that sets forth the review and findings of the State Board staff, as prescribed by the State Board, regarding applications subject to Board jurisdiction.

(Source: P.A. 100-518, eff. 6-1-18; 100-581, eff. 3-12-18; 100-957, eff. 8-19-18; 101-81, eff. 7-12-19; 101-650, eff. 7-7-20.)

(20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

(Section scheduled to be repealed on December 31, 2029)

Sec. 4. Health Facilities and Services Review Board; membership; appointment; term; compensation; quorum.

(a) There is created the Health Facilities and Services Review Board, which shall perform the functions described in this Act. The Department shall provide operational support to the Board as necessary, including the provision of office space, supplies, and clerical, financial, and accounting services. The Board may contract for functions or operational

support as needed. The Board may also contract with experts related to specific health services or facilities and create technical advisory panels to assist in the development of criteria, standards, and procedures used in the evaluation of applications for permit and exemption.

(b) The State Board shall consist of 9 voting members. All members shall be residents of Illinois and at least 3 ~~4~~ shall reside outside the Chicago Metropolitan Statistical Area. Consideration shall be given to potential appointees who reflect the ethnic and cultural diversity of the State. Neither Board members nor Board staff shall be convicted felons or have pled guilty to a felony.

Each member shall have a reasonable knowledge of the practice, procedures and principles of the health care delivery system in Illinois, including at least 5 members who shall be knowledgeable about health care delivery systems, health systems planning, finance, or the management of health care facilities currently regulated under the Act. One member shall be a representative of a non-profit health care consumer advocacy organization and one member shall be representative of a trade or labor union representing health care workers. A spouse, parent, sibling, or child of a Board member cannot be an employee, agent, or under contract with services or facilities subject to the Act. Prior to appointment and in the course of service on the Board, members of the Board shall disclose the employment or other financial interest of any

other relative of the member, if known, in service or facilities subject to the Act. Members of the Board shall declare any conflict of interest that may exist with respect to the status of those relatives and recuse themselves from voting on any issue for which a conflict of interest is declared. No person shall be appointed or continue to serve as a member of the State Board who is, or whose spouse, parent, sibling, or child is, a member of the Board of Directors of, has a financial interest in, or has a business relationship with a health care facility.

Notwithstanding any provision of this Section to the contrary, the term of office of each member of the State Board serving on the day before the effective date of this amendatory Act of the 96th General Assembly is abolished on the date upon which members of the 9-member Board, as established by this amendatory Act of the 96th General Assembly, have been appointed and can begin to take action as a Board.

(c) The State Board shall be appointed by the Governor, with the advice and consent of the Senate. Not more than 5 of the appointments shall be of the same political party at the time of the appointment.

The Secretary of Human Services, the Director of Healthcare and Family Services, and the Director of Public Health, or their designated representatives, shall serve as ex-officio, non-voting members of the State Board.

(d) Of those 9 members initially appointed by the Governor following the effective date of this amendatory Act of the 96th General Assembly, 3 shall serve for terms expiring July 1, 2011, 3 shall serve for terms expiring July 1, 2012, and 3 shall serve for terms expiring July 1, 2013. Thereafter, each appointed member shall hold office for a term of 3 years, provided that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term and the term of office of each successor shall commence on July 1 of the year in which his predecessor's term expires. Each member shall hold office until his or her successor is appointed and qualified. The Governor may reappoint a member for additional terms, but no member shall serve more than 3 terms, subject to review and re-approval every 3 years.

(e) State Board members, while serving on business of the State Board, shall receive actual and necessary travel and subsistence expenses while so serving away from their places of residence. Until March 1, 2010, a member of the State Board who experiences a significant financial hardship due to the loss of income on days of attendance at meetings or while otherwise engaged in the business of the State Board may be paid a hardship allowance, as determined by and subject to the approval of the Governor's Travel Control Board.

(f) The Governor shall designate one of the members to

serve as the Chairman of the Board, who shall be a person with expertise in health care delivery system planning, finance or management of health care facilities that are regulated under the Act. The Chairman shall annually review Board member performance and shall report the attendance record of each Board member to the General Assembly.

(g) The State Board, through the Chairman, shall prepare a separate and distinct budget approved by the General Assembly and shall hire and supervise its own professional staff responsible for carrying out the responsibilities of the Board.

(h) The State Board shall meet at least every 45 days, or as often as the Chairman of the State Board deems necessary, or upon the request of a majority of the members.

(i) Five members of the State Board shall constitute a quorum. The affirmative vote of 5 of the members of the State Board shall be necessary for any action requiring a vote to be taken by the State Board. A vacancy in the membership of the State Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the State Board as provided by this Act.

(j) A State Board member shall disqualify himself or herself from the consideration of any application for a permit or exemption in which the State Board member or the State Board member's spouse, parent, sibling, or child: (i) has an economic interest in the matter; or (ii) is employed by,

serves as a consultant for, or is a member of the governing board of the applicant or a party opposing the application.

(k) The Chairman, Board members, and Board staff must comply with the Illinois Governmental Ethics Act.

(Source: P.A. 99-527, eff. 1-1-17; 100-681, eff. 8-3-18.)

(20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

(Section scheduled to be repealed on December 31, 2029)

Sec. 5. Construction, modification, or establishment of health care facilities or acquisition of major medical equipment; permits or exemptions. No person shall construct, modify or establish a health care facility or acquire major medical equipment without first obtaining a permit or exemption from the State Board. The State Board shall not delegate to the staff of the State Board or any other person or entity the authority to grant permits or exemptions whenever the staff or other person or entity would be required to exercise any discretion affecting the decision to grant a permit or exemption. The State Board may, by rule, delegate authority to the Chairman to grant permits or exemptions when applications meet all of the State Board's review criteria and are unopposed.

A permit or exemption shall be obtained prior to the acquisition of major medical equipment or to the construction or modification of a health care facility which:

(a) requires a total capital expenditure in excess of

the capital expenditure minimum; or

(b) substantially changes the scope or changes the functional operation of the facility; or

(c) changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 20 beds or more than 10% of total bed capacity as defined by the State Board, whichever is less, over a 2-year period.

A permit shall be valid only for the defined construction or modifications, site, amount and person named in the application for such permit. The State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been financially committed, except for permits to establish a new facility or category of service. A permit shall be valid until such time as the project has been completed, provided that the project commences and proceeds to completion with due diligence by the completion date or extension date approved by the Board.

A permit holder must do the following: (i) submit the final completion and cost report for the project within 90 days after the approved project completion date or extension date and (ii) submit annual progress reports no earlier than 30 days before and no later than 30 days after each anniversary date of the Board's approval of the permit until the project is

completed. To maintain a valid permit and to monitor progress toward project commencement and completion, routine post-permit reports shall be limited to annual progress reports and the final completion and cost report. Annual progress reports shall include information regarding the committed funds expended toward the approved project. For projects to be completed in 12 months or less, the permit holder shall report financial commitment in the final completion and cost report. For projects to be completed between 12 to 24 months, the permit holder shall report financial commitment in the first annual report. For projects to be completed in more than 24 months, the permit holder shall report financial commitment in the second annual progress report. The report shall contain information regarding expenditures and financial commitments. The State Board may extend the financial commitment period after considering a permit holder's showing of good cause and request for additional time to complete the project.

The Certificate of Need process required under this Act is designed to <u>support equitable access to health care services, develop and protect safety net services, and</u> restrain rising health care costs by preventing unnecessary construction or modification of health care facilities. The Board must assure that the establishment, construction, or modification of a health care facility or the acquisition of major medical equipment is consistent with the public interest and that the

proposed project is consistent with the orderly and economic development or acquisition of those facilities and equipment and is in accord with the standards, criteria, or plans of need adopted and approved by the Board. The Board must assure decisions regarding hospital facility or service discontinuations are consistent with the health equity purposes of the Act and consider whether or not such facility or service discontinuations will worsen health disparities. Board decisions regarding the construction of health care facilities must consider capacity, quality, value, and equity. Projects may deviate from the costs, fees, and expenses provided in their project cost information for the project's cost components, provided that the final total project cost does not exceed the approved permit amount. Project alterations shall not increase the total approved permit amount by more than the limit set forth under the Board's rules.

The acquisition by any person of major medical equipment that will not be owned by or located in a health care facility and that will not be used to provide services to inpatients of a health care facility shall be exempt from review provided that a notice is filed in accordance with exemption requirements.

Notwithstanding any other provision of this Act, no permit or exemption is required for the construction or modification of a non-clinical service area of a health care facility.

(Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18.)

(20 ILCS 3960/5.4)

(Section scheduled to be repealed on December 31, 2029)

Sec. 5.4. Safety Net Impact Statement.

(a) General review criteria shall include a requirement that all health care facilities, with the exception of skilled and intermediate long-term care facilities licensed under the Nursing Home Care Act, provide a Safety Net Impact Statement, which shall be filed with an application for a substantive project or when the application proposes to discontinue a category of service.

(b) (Blank). ~~For the purposes of this Section, "safety net services" are services provided by health care providers or organizations that deliver health care services to persons with barriers to mainstream health care due to lack of insurance, inability to pay, special needs, ethnic or cultural characteristics, or geographic isolation. Safety net service providers include, but are not limited to, hospitals and private practice physicians that provide charity care, school-based health centers, migrant health clinics, rural health clinics, federally qualified health centers, community health centers, public health departments, and community mental health centers.~~

(c) As developed by the applicant, a Safety Net Impact Statement shall describe all of the following:

(1) The project's material impact, if any, on essential safety net services in the community, including safety net hospitals and critical access hospitals, to the extent that it is feasible for an applicant to have such knowledge.

(2) The project's impact on the ability of another provider or health care system to cross-subsidize safety net services~~, if reasonably known to the applicant~~.

(3) How the discontinuation of a facility or service will ~~might~~ impact other ~~the remaining~~ safety net providers ~~in a given community, if reasonably known by the applicant~~.

(4) How the discontinuation of a facility or service will impact the Medicaid population.

(5) How the discontinuation of a facility or service will impact the health status and outcomes of communities or populations suffering from health disparities. This should include consideration of disparities in healthcare access and outcomes by income, race and ethnic identity, and preferred language, if reasonably known to the applicant.

(d) Safety Net Impact Statements shall also include all of the following:

(1) For the 3 fiscal years prior to the application, a certification describing the amount of charity care provided by the applicant. The amount calculated by

hospital applicants shall be in accordance with the reporting requirements for charity care reporting in the Illinois Community Benefits Act. Non-hospital applicants shall report charity care, at cost, in accordance with an appropriate methodology specified by the Board.

(2) For the 3 fiscal years prior to the application, a certification of the amount of care provided to Medicaid patients. Hospital and non-hospital applicants shall provide Medicaid information in a manner consistent with the information reported each year to the State Board regarding "Inpatients and Outpatients Served by Payor Source" and "Inpatient and Outpatient Net Revenue by Payor Source" as required by the Board under Section 13 of this Act and published in the Annual Hospital Profile.

(3) Any information the applicant believes is directly relevant to safety net services, including information regarding teaching, research, and any other service.

(e) The Board staff shall publish a notice, that an application accompanied by a Safety Net Impact Statement has been filed, in a newspaper having general circulation within the area affected by the application. If no newspaper has a general circulation within the county, the Board shall post the notice in 5 conspicuous places within the proposed area.

(f) Any person, community organization, provider, or health system or other entity wishing to comment upon or oppose the application may file a Safety Net Impact Statement

Response with the Board, which shall provide additional information concerning a project's impact on safety net services in the community.

(g) Applicants shall be provided an opportunity to submit a reply to any Safety Net Impact Statement Response.

(h) The State Board Staff Report shall include a statement as to whether a Safety Net Impact Statement was filed by the applicant and whether it included information on charity care, the amount of care provided to Medicaid patients, and information on teaching, research, or any other service provided by the applicant directly relevant to safety net services. The report shall also indicate the names of the parties submitting responses and the number of responses and replies, if any, that were filed.

(Source: P.A. 100-518, eff. 6-1-18.)

(20 ILCS 3960/5.5 new)

Sec. 5.5. Emergency Medicine and Trauma Systems Impact Statement.

(a) Review criteria shall include a requirement that all general acute hospitals applying to discontinue a facility, intensive care services, or another category of service relevant to emergency medical service and trauma systems identified by rule by the Board include in its application an Emergency Medicine and Trauma Systems Impact Statement.

(b) As developed by the applicant, an Emergency Medicine

and Trauma Systems Impact Statement shall describe all of the following:

(1) How the discontinuation of the facility or service will impact the availability of emergency medical and trauma services for area populations, specifically including those that experience difficulty accessing health services or experience health disparities.

(2) How the discontinuation of the facility or service might impact the remaining providers of emergency medical and trauma services in the area, to the extent known by the applicant.

(c) Emergency Medicine and Trauma Systems Impact Statements shall also include all of the following:

(1) A list of each resource identified in any emergency medical service system program plan that will cease to exist as a result of the facility or service discontinuation, with a description of its utilization in the most recent 2 years for which data is available.

(2) A list of each resource identified in any trauma or stroke center designation that will cease to exist as a result of the facility or service discontinuation, with a description of its utilization in the most recent 2 years for which data is available.

(3) If any resource listed pursuant to paragraphs (1) or (2) above was on diversion or bypass status or otherwise not available during the 2 years, the statement

must list the times and reasons it was on bypass.

(d) The Board staff shall publish a notice, that an application accompanied by an Emergency Medicine and Trauma Systems Impact Statement has been filed, in a newspaper having general circulation within the area affected by the application. If no newspaper has a general circulation within the county, the Board shall post the notice in 5 conspicuous places within the proposed area.

(e) Any person, community organization, provider, or health system or other entity wishing to comment upon or oppose the application may file an Emergency Medical and Trauma Systems Impact Statement Response with the Board, which shall provide additional information concerning a project's impact on emergency medical and trauma services in the community.

(f) Applicants shall be provided an opportunity to submit a reply to any Emergency Medical and Trauma Systems Impact Statement Response.

(g) The State Board Staff Report shall include a statement as to whether an Emergency Medical and Trauma Systems Impact Statement was filed by the applicant and whether it included information described in subsections (b) and (c) above. The report shall indicate whether the list of resources identified pursuant to subsection (c) is accurate and complete. The report shall also indicate the names of the parties submitting responses and the number of responses and replies, if any,

that were filed.

(20 ILCS 3960/5.6 new)

Sec. 5.6. Maternal and Child Health Impact Statement.

(a) Review criteria shall include a requirement that all general acute hospitals applying to discontinue a facility, obstetric services, pediatric services, neonatal intensive care services, or any other category of service relevant to maternal and child health identified by rule by the Board include in its application an Emergency Medicine and Trauma Systems Impact Statement.

(b) As developed by the applicant, a Maternal and Child Health Impact Statement shall describe all of the following:

(1) How the discontinuation of the facility or service will impact the availability of perinatal and maternal care services for area populations, specifically including those that experience difficulty accessing health services or experience health disparities.

(2) How the discontinuation of the facility or service might impact the remaining providers of perinatal and maternal care services in the area, to the extent known by the applicant.

(c) Maternal and Child Health Impact Statements shall also include all of the following:

(1) A list of each resource identified in any obstetric and neonatal service plan, hospital perinatal

care level designation, or maternal care level designation that will cease to exist as a result of the facility or service discontinuation, with a description of its utilization in the most recent 2 years for which data is available.

(2) A list of any resource that was developed through initiatives set forth in Section 2310-222 of the Department of Public Health Powers and Duties Law to improve birth equity and reduce postpartum racial and ethnic disparities, or that serves similar purposes that will cease to exist as a result of the facility or service discontinuation.

(d) The Board staff shall publish a notice, that an application accompanied by a Maternal and Child Health Impact Statement has been filed, in a newspaper having general circulation within the area affected by the application. If no newspaper has a general circulation within the county, the Board shall post the notice in 5 conspicuous places within the proposed area.

(e) Any person, community organization, provider, or health system or other entity wishing to comment upon or oppose the application may file a Maternal and Child Health Impact Statement Response with the Board, which shall provide additional information concerning a project's impact on emergency medical and trauma services in the community.

(f) Applicants shall be provided an opportunity to submit

a reply to any Maternal and Child Health Impact Statement Response.

(g) The State Board Staff Report shall include a statement as to whether a Maternal and Child Health Impact Statement was filed by the applicant and whether it included information described in paragraphs (b) and (c) above. The report shall indicate whether the list of resources identified pursuant to paragraph (c) is accurate and complete. The report shall also indicate the names of the parties submitting responses and the number of responses and replies, if any, that were filed.

(20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

(Section scheduled to be repealed on December 31, 2029)

Sec. 6. Application for permit or exemption; exemption regulations.

(a) An application for a permit or exemption shall be made to the State Board upon forms provided by the State Board. This application shall contain such information as the State Board deems necessary. The State Board shall not require an applicant to file a Letter of Intent before an application is filed. Such application shall include affirmative evidence on which the State Board or Chairman may make its decision on the approval or denial of the permit or exemption.

(b) The State Board shall establish by regulation the procedures and requirements regarding issuance of exemptions. An exemption shall be approved when information required by

the Board by rule is submitted. Projects eligible for an exemption, rather than a permit, shall be ~~include, but are not~~ limited to~~,~~ change of ownership of a health care facility and discontinuation of a category of service, other than a hospital, or a health care facility maintained by the State or any agency or department thereof or a nursing home maintained by a county. The Board may accept an application for an exemption for the discontinuation of a category of service at any other ~~a~~ health care facility only once in a 6-month period following (1) the previous application for exemption at the same health care facility or (2) the final decision of the Board regarding the discontinuation of a category of service at the same health care facility, whichever occurs later. A discontinuation of a category of service shall otherwise require an application for a permit if an application for an exemption has already been accepted within the 6-month period. For a change of ownership among related persons of a health care facility, the State Board shall provide by rule for an expedited process for obtaining an exemption. For the purposes of this Section, "change of ownership among related persons" means a transaction in which the parties to the transaction are under common control or ownership before and after the transaction is complete.

(c) All applications shall be signed by the applicant and shall be verified by any 2 officers thereof.

(c-5) Any written review or findings of the Board staff

set forth in the State Board Staff Report concerning an application for a permit must be made available to the public and the applicant at least 14 calendar days before the meeting of the State Board at which the review or findings are considered. The applicant and members of the public may submit, to the State Board, written responses regarding the facts set forth in the review or findings of the Board staff. Members of the public and the applicant shall have until 10 days before the meeting of the State Board to submit any written response concerning the Board staff's written review or findings. The Board staff may revise any findings to address corrections of factual errors cited in the public response. At the meeting, the State Board may, in its discretion, permit the submission of other additional written materials.

(d) Upon receipt of an application for a permit, the State Board shall approve and authorize the issuance of a permit if it finds (1) that the applicant is fit, willing, and able to provide a proper standard of health care service for the community with particular regard to the qualification, background and character of the applicant, (2) that economic feasibility is demonstrated in terms of effect on the existing and projected operating budget of the applicant and of the health care facility; in terms of the applicant's ability to establish and operate such facility in accordance with licensure regulations promulgated under pertinent state laws;

and in terms of the projected impact on the total health care expenditures in the facility and community, (3) that safeguards are provided that assure that the establishment, construction or modification of the health care facility or acquisition of major medical equipment is consistent with the public interest, (4) that the project will not plausibly increase health disparities, and (5) ~~(4)~~ that the proposed project is consistent with the orderly and economic development of such facilities and equipment and is in accord with standards, criteria, or plans of need adopted and approved pursuant to the provisions of Section 12 of this Act.

(d-5) For an application for a permit to discontinue a hospital facility or service, the State Board shall consider:

(1) how the discontinuation of the facility or service will impact safety net services;

(2) the emergency medical and trauma system impact, if applicable;

(3) the maternal and child health impact, if applicable; and

(4) the economic feasibility, based on the resources of the applicant and related persons, of continued operation as an alternative.

(e) The State Board may attach conditions to issuance of a permit. For a discontinuation of a hospital facility or service, the State Board is expressly permitted to attach conditions requiring that certain public support or subsidies

received by the hospital must be repaid.

(Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18; 101-83, eff. 7-15-19.)

(20 ILCS 3960/6.05 new)

Sec. 6.05. Hospital closure during a pandemic. The State Board shall not issue a permit or take any other action that would allow closure of a general acute care hospital to proceed during a public health emergency declared pursuant to the Illinois Emergency Management Act as the result of an infectious disease pandemic.

(20 ILCS 3960/6.2)

(Section scheduled to be repealed on December 31, 2029)

Sec. 6.2. Review of permits; State Board Staff Reports. Upon receipt of an application for a permit to establish, construct, or modify a health care facility, the State Board staff shall notify the applicant in writing within 10 working days either that the application is or is not ~~substantially~~ complete. If the application is ~~substantially~~ complete, the State Board staff shall notify the applicant of the beginning of the review process. If the application is not ~~substantially~~ complete, the Board staff shall explain within the 10-day period why the application is incomplete.

The State Board staff shall afford a reasonable amount of time as established by the State Board, but not to exceed 180

~~120~~ days, for the review of the application. The 180-day ~~120-day~~ period begins on the day the application is found to be ~~substantially~~ complete, as that term is defined by the State Board. During the 180-day ~~120-day~~ period, the applicant may request an extension. An applicant may modify the application at any time before a final administrative decision has been made on the application.

The State Board staff shall submit its State Board Staff Report to the State Board for its decision-making regarding approval or denial of the permit.

When an application for a permit is initially reviewed by State Board staff, as provided in this Section, the State Board shall, upon request by the applicant or an interested person, afford an opportunity for a public hearing within a reasonable amount of time after receipt of the complete application, but not to exceed 90 days after receipt of the complete application. Notice of the hearing shall be made promptly, not less than 10 days before the hearing, by certified mail to the applicant and, not less than 10 days before the hearing, by publication in a newspaper of general circulation in the area or community to be affected. The hearing shall be held in the area or community in which the proposed project is to be located and shall be for the purpose of allowing the applicant and any interested person to present public testimony concerning the approval, denial, renewal, or revocation of the permit. All interested persons attending the

hearing shall be given a reasonable opportunity to present their views or arguments in writing or orally, and a record of all of the testimony shall accompany any findings of the State Board staff. The State Board shall adopt reasonable rules and regulations governing the procedure and conduct of the hearings.

(Source: P.A. 99-114, eff. 7-23-15; 100-681, eff. 8-3-18.)

(20 ILCS 3960/8.5)

(Section scheduled to be repealed on December 31, 2029)

Sec. 8.5. Certificate of exemption for change of ownership of a health care facility; discontinuation of a category of service; public notice and public hearing.

(a) Upon a finding that an application for a change of ownership is complete, the State Board shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The applicant shall pay the cost incurred by the Board in publishing the change of ownership notice in

newspapers as required under this subsection. The legal notice shall also be posted on the Health Facilities and Services Review Board's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. An application for change of ownership of a hospital shall not be deemed complete without a signed certification that for a period of 2 years after the change of ownership transaction is effective, the hospital will not adopt a charity care policy that is more restrictive than the policy in effect during the year prior to the transaction. An application for change of ownership of a hospital shall not be deemed complete without a signed certification that for a period of 1 year after the change of ownership transaction is effective, the hospital will not pursue facility closure or discontinuation of any category of service. An application for a change of ownership need not contain signed transaction documents so long as it includes the following key terms of the transaction: names and background of the parties; structure of the transaction; the person who will be the licensed or certified entity after the transaction; the ownership or membership interests in such licensed or certified entity both prior to and after the transaction; fair market value of assets to be transferred; and the purchase price or other form of consideration to be provided for those assets. The issuance of the certificate of exemption shall be contingent upon the applicant submitting a statement to the Board within 90 days

after the closing date of the transaction, or such longer period as provided by the Board, certifying that the change of ownership has been completed in accordance with the key terms contained in the application. If such key terms of the transaction change, a new application shall be required.

Where a change of ownership is among related persons, and there are no other changes being proposed at the health care facility that would otherwise require a permit or exemption under this Act, the applicant shall submit an application consisting of a standard notice in a form set forth by the Board briefly explaining the reasons for the proposed change of ownership. Once such an application is submitted to the Board and reviewed by the Board staff, the Board Chair shall take action on an application for an exemption for a change of ownership among related persons within 45 days after the application has been deemed complete, provided the application meets the applicable standards under this Section. If the Board Chair has a conflict of interest or for other good cause, the Chair may request review by the Board. Notwithstanding any other provision of this Act, for purposes of this Section, a change of ownership among related persons means a transaction where the parties to the transaction are under common control or ownership before and after the transaction is completed.

~~Nothing in this Act shall be construed as authorizing the Board to impose any conditions, obligations, or limitations, other than those required by this Section, with respect to the~~

~~issuance of an exemption for a change of ownership, including, but not limited to, the time period before which a subsequent change of ownership of the health care facility could be sought, or the commitment to continue to offer for a specified time period any services currently offered by the health care facility.~~

(a-3) (Blank).

(a-5) Upon a finding that an application to discontinue a category of service is complete and provides the requested information, as specified by the State Board, an exemption shall be issued. No later than 30 days after the issuance of the exemption, the health care facility must give written notice of the discontinuation of the category of service to the State Senator and State Representative serving the legislative district in which the health care facility is located. No later than 90 days after a discontinuation of a category of service, the applicant must submit a statement to the State Board certifying that the discontinuation is complete.

(b) If a public hearing is requested, it shall be held at least 15 days but no more than 30 days after the date of publication of the legal notice in the community in which the facility is located. The hearing shall be held in the affected area or community in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. All interested persons

attending the hearing shall be given a reasonable opportunity to present their positions in writing or orally. The applicant shall provide a summary or describe the proposed change of ownership at the public hearing.

(c) For the purposes of this Section "newspaper of limited circulation" means a newspaper intended to serve a particular or defined population of a specific geographic area within a Metropolitan Statistical Area such as a municipality, town, village, township, or community area, but does not include publications of professional and trade associations.

(d) The changes made to this Section by this amendatory Act of the 101st General Assembly shall apply to all applications submitted after the effective date of this amendatory Act of the 101st General Assembly.

(Source: P.A. 100-201, eff. 8-18-17; 101-83, eff. 7-15-19.)

(20 ILCS 3960/8.7)

(Section scheduled to be repealed on December 31, 2029)

Sec. 8.7. Application for permit for discontinuation of a health care facility or category of service; public notice and public hearing.

(a) Upon a finding that an application to close a health care facility or discontinue a category of service is complete, the State Board shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an

opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on the Health Facilities and Services Review Board's website and sent to the State Representative and State Senator of the district in which the health care facility is located. In addition, the health care facility shall provide notice of closure to the local media that the health care facility would routinely notify about facility events.

An application to close a health care facility shall only be deemed complete if it includes evidence that the health care facility provided written notice at least 30 days prior to filing the application of its intent to do so to the municipality in which it is located, the State Representative and State Senator of the district in which the health care facility is located, the State Board, the Director of Public Health, and the Director of Healthcare and Family Services. The changes made to this subsection by this amendatory Act of the 101st General Assembly shall apply to all applications submitted after the effective date of this amendatory Act of the 101st General Assembly.

(b) An application to close a hospital facility, or discontinue a hospital service if applicable, shall only be deemed complete when the applicant includes a list of public support or subsidies it has received without repaying or fulfilling obligations or any other public subsidies it has received in the past 5 years, including hospital assessment funded supplemental payments, capital development grants, public health grants, economic development grants and supports, and any other categories the Board may identify by rule. In cases of service discontinuation, this requirement applies if the support or subsidy is specific to the service.

(c) In cases of hospital facility or service discontinuation, a public response to a safety net impact statement under subsection (f) of Section 5.4, emergency medicine and trauma system impact statement under subsection (e) of Section 5.5, or maternal and child health impact statement under subsection (e) of Section 5.6 may request an investigative hearing by the full board under the procedures set forth in Section 13. Such request shall be granted unless the Board finds the applicant has shown a likelihood there will be no impact on the services that are the subject of the request.

(d) No later than 30 days after issuance of a permit to close a health care facility or discontinue a category of service, the permit holder shall give written notice of the closure or discontinuation to the State Senator and State

Representative serving the legislative district in which the health care facility is located.

(e) ~~(c)~~ If there is a pending lawsuit that challenges an application to discontinue a health care facility that either names the Board as a party or alleges fraud in the filing of the application, the Board may defer action on the application until there is no longer such a lawsuit pending ~~for up to 6 months after the date of the initial deferral of the application~~.

(f) ~~(d)~~ The changes made to this Section by this amendatory Act of the 101st General Assembly shall apply to all applications submitted after the effective date of this amendatory Act of the 101st General Assembly.

(Source: P.A. 101-83, eff. 7-15-19; 101-650, eff. 7-7-20.)

(20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

(Section scheduled to be repealed on December 31, 2029)

Sec. 12. Powers and duties of State Board. For purposes of this Act, the State Board shall exercise the following powers and duties:

(1) Prescribe rules, regulations, standards, criteria, procedures or reviews which may vary according to the purpose for which a particular review is being conducted or the type of project reviewed and which are required to carry out the provisions and purposes of this Act. Policies and procedures of the State Board shall take into

consideration the priorities and needs of medically underserved areas and other health care services, giving special consideration to the impact of projects on access to safety net services.

(2) Adopt procedures for public notice and hearing on all proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of this Act.

(3) (Blank).

(4) Develop criteria and standards for health care facilities planning, conduct statewide inventories of health care facilities, maintain an updated inventory on the Board's web site reflecting the most recent bed and service changes and updated need determinations when new census data become available or new need formulae are adopted, and develop health care facility plans which shall be utilized in the review of applications for permit under this Act. Such health facility plans shall be coordinated by the Board with pertinent State Plans. Inventories pursuant to this Section of skilled or intermediate care facilities licensed under the Nursing Home Care Act, skilled or intermediate care facilities licensed under the ID/DD Community Care Act, skilled or intermediate care facilities licensed under the MC/DD Act, facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013, or nursing homes licensed under the Hospital Licensing Act shall be conducted on an

annual basis no later than July 1 of each year and shall include among the information requested a list of all services provided by a facility to its residents and to the community at large and differentiate between active and inactive beds.

In developing health care facility plans, the State Board shall consider, but shall not be limited to, the following:

(a) The size, composition and growth of the population of the area to be served <u>including Medicaid population specifically</u>;

(b) The number of existing and planned facilities offering similar programs;

(c) The extent of utilization of existing facilities <u>including Medicaid utilization specifically</u>;

(d) The availability of facilities which may serve as alternatives or substitutes;

(e) The availability of personnel necessary to the operation of the facility;

(f) Multi-institutional planning and the establishment of multi-institutional systems where feasible;

(g) The financial and economic feasibility of proposed construction or modification; ~~and~~

<u>(g-5) Impact on safety net services including</u>

safety net and critical access hospitals;

(h) In the case of health care facilities established by a religious body or denomination, the needs of the members of such religious body or denomination may be considered to be public need; and.

(i) The presence and severity of health disparities in the area and among the population to be served. This at minimum must include consideration of disparities in healthcare access and outcomes by income, race and ethnic identity, and preferred language.

The health care facility plans which are developed and adopted in accordance with this Section shall form the basis for the plan of the State to deal most effectively with statewide health needs in regard to health care facilities.

(5) Coordinate with other state agencies having responsibilities affecting health care facilities, including those of licensure and cost reporting.

(6) Solicit, accept, hold and administer on behalf of the State any grants or bequests of money, securities or property for use by the State Board in the administration of this Act; and enter into contracts consistent with the appropriations for purposes enumerated in this Act.

(7) (Blank).

(7.5) Protect safety net services.

(8) Prescribe rules, regulations, standards, and criteria for the conduct of an expeditious review of applications for permits for projects of construction or modification of a health care facility, which projects are classified as emergency, substantive, or non-substantive in nature.

Substantive projects shall include ~~no more than~~ the following:

(a) Projects to construct (1) a new or replacement facility located on a new site or (2) a replacement facility located on the same site as the original facility and the cost of the replacement facility exceeds the capital expenditure minimum, which shall be reviewed by the Board within 120 days;

(b) Projects proposing a (1) new service within an existing healthcare facility or (2) discontinuation of a service within an existing healthcare facility, which shall be reviewed by the Board within 60 days; or

(c) Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one physical facility or site to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board, whichever is less, over a 2-year period.

The Chairman may approve applications for exemption that meet the criteria set forth in rules or refer them to the full Board. The Chairman may approve any unopposed application that meets all of the review criteria or refer them to the full Board.

Such rules shall not prevent the conduct of a public hearing upon the timely request of an interested party. Such reviews shall not exceed 60 days from the date the application is declared to be complete.

(9) Prescribe rules, regulations, standards, and criteria pertaining to the granting of permits for construction and modifications which are emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined in the rules and regulations of the State Board. This procedure is exempt from public hearing requirements of this Act.

(10) Prescribe rules, regulations, standards and criteria for the conduct of an expeditious review, not exceeding 60 days, of applications for permits for projects to construct or modify health care facilities which are needed for the care and treatment of persons who have acquired immunodeficiency syndrome (AIDS) or related conditions.

(10.5) Provide its rationale when voting on an item

before it at a State Board meeting in order to comply with subsection (b) of Section 3-108 of the Code of Civil Procedure.

(11) Issue written decisions upon request of the applicant or an adversely affected party to the Board. Requests for a written decision shall be made within 15 days after the Board meeting in which a final decision has been made. A "final decision" for purposes of this Act is the decision to approve or deny an application, or take other actions permitted under this Act, at the time and date of the meeting that such action is scheduled by the Board. The transcript of the State Board meeting shall be incorporated into the Board's final decision. The staff of the Board shall prepare a written copy of the final decision and the Board shall approve a final copy for inclusion in the formal record. The Board shall consider, for approval, the written draft of the final decision no later than the next scheduled Board meeting. The written decision shall identify the applicable criteria and factors listed in this Act and the Board's regulations that were taken into consideration by the Board when coming to a final decision. If the Board denies or fails to approve an application for permit or exemption, the Board shall include in the final decision a detailed explanation as to why the application was denied and identify what specific criteria or standards the applicant did not

fulfill.

(12) (Blank).

(13) Provide a mechanism for the public to comment on, and request changes to, draft rules and standards.

(14) Implement public information campaigns to regularly inform the general public about the opportunity for public hearings and public hearing procedures.

(15) Establish a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. The Subcommittee shall make recommendations to the Board no later than January 1, 2016 and every January thereafter pursuant to the

Subcommittee's responsibility for the continuous review and commentary on policies and procedures relative to long-term care. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences and submit its recommendations to the Chairman of the Board no later than January 1, 2017. The Subcommittee shall evaluate, and make recommendations to the State Board regarding, the buying, selling, and exchange of beds between long-term care facilities within a specified geographic area or drive time. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by no later than September 30, 2011. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of this Act.

The Chairman of the Board shall appoint voting members of the Subcommittee, who shall serve for a period of 3 years, with one-third of the terms expiring each January, to be determined by lot. Appointees shall include, but not

be limited to, recommendations from each of the 3 statewide long-term care associations, with an equal number to be appointed from each. Compliance with this provision shall be through the appointment and reappointment process. All appointees serving as of April 1, 2015 shall serve to the end of their term as determined by lot or until the appointee voluntarily resigns, whichever is earlier.

One representative from the Department of Public Health, the Department of Healthcare and Family Services, the Department on Aging, and the Department of Human Services may each serve as an ex-officio non-voting member of the Subcommittee. The Chairman of the Board shall select a Subcommittee Chair, who shall serve for a period of 3 years.

(16) Prescribe the format of the State Board Staff Report. A State Board Staff Report shall pertain to applications that include, but are not limited to, applications for permit or exemption, applications for permit renewal, applications for extension of the financial commitment period, applications requesting a declaratory ruling, or applications under the Health Care Worker Self-Referral Act. State Board Staff Reports shall compare applications to the relevant review criteria under the Board's rules.

(17) Establish a separate set of rules and guidelines

for facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013. An application for the re-establishment of a facility in connection with the relocation of the facility shall not be granted unless the applicant has a contractual relationship with at least one hospital to provide emergency and inpatient mental health services required by facility consumers, and at least one community mental health agency to provide oversight and assistance to facility consumers while living in the facility, and appropriate services, including case management, to assist them to prepare for discharge and reside stably in the community thereafter. No new facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013 shall be established after June 16, 2014 (the effective date of Public Act 98-651) except in connection with the relocation of an existing facility to a new location. An application for a new location shall not be approved unless there are adequate community services accessible to the consumers within a reasonable distance, or by use of public transportation, so as to facilitate the goal of achieving maximum individual self-care and independence. At no time shall the total number of authorized beds under this Act in facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013 exceed the number of authorized beds on June 16, 2014 (the effective date of Public Act

98-651).

(18) Elect a Vice Chairman to preside over State Board meetings and otherwise act in place of the Chairman when the Chairman is unavailable.

(Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18; 101-83, eff. 7-15-19.)

(20 ILCS 3960/12.3)

(Section scheduled to be repealed on December 31, 2029)

Sec. 12.3. Revision of criteria, standards, and rules. At least every 2 years, the State Board shall review, revise, and update the criteria, standards, and rules used to evaluate applications for permit and exemption. The Board may appoint temporary advisory committees made up of experts with professional competence in the subject matter of the proposed standards or criteria to assist in the development of revisions to requirements, standards, and criteria. In particular, the review of the criteria, standards, and rules shall consider:

(1) Whether the requirements, criteria, and standards reflect current industry standards and anticipated trends.

(2) Whether the criteria and standards can be reduced or eliminated.

(3) Whether requirements, criteria, and standards can be developed to authorize the construction of unfinished space for future use when the ultimate need for such space

can be reasonably projected.

(4) Whether the criteria and standards take into account issues related to population growth, ~~and~~ changing demographics, Medicaid utilization, and the presence and severity of health disparities in a community, which at minimum must include consideration of disparities in healthcare access and outcomes by income, race and ethnic identity, and preferred language.

(5) Whether facility-defined service and planning areas should be recognized.

(6) Whether categories of service that are subject to review should be re-evaluated, including provisions related to structural, functional, and operational differences between long-term care facilities and acute care facilities and that allow routine changes of ownership, facility sales, and closure requests to be processed on a more timely basis.

As of July 1, 2021 and thereafter, the State Board may not utilize need formulae for lines of service that do not factor in disparities in incidence of health conditions or other demonstrated need for the service.

(Source: P.A. 99-527, eff. 1-1-17; 100-681, eff. 8-3-18.)

(20 ILCS 3960/12.4)

(Section scheduled to be repealed on December 31, 2029)

Sec. 12.4. Hospital reduction in health care services;

notice. If a hospital reduces any of the Categories of Service as outlined in Title 77, Chapter II, Part 1110 in the Illinois Administrative Code, or any other service as defined by rule by the State Board, by 50% or more according to rules adopted by the State Board, then within 30 days after reducing the service, the hospital must give written notice of the reduction in service to the State Board, the Department of Public Health, and the State Senator and State Representative serving the legislative district in which the hospital is located. If the amount of the reduction is greater than or equal to 5% of service inventory in the region, the State Board shall cause the notice to be published in the publications and locations listed in subsection (a) of Section 8.7. Any party receiving notice may request a safety net impact statement, emergency medicine and trauma system impact statement, or maternal and child health impact statement, as described at: (i) subsections (c) and (d) of Section 5.4; (ii) subsections (b) and (c) of Section 5.5; and (iii) subsections (b) and (c) of Section 5.6, respectively, to be filed describing impact of the reduction in services. The State Board shall adopt rules to implement this Section, including rules that specify (i) how each health care service is defined, if not already defined in the State Board's rules, and (ii) what constitutes a reduction in service of 50% or more.

(Source: P.A. 100-681, eff. 8-3-18.)

(20 ILCS 3960/13.1) (from Ch. 111 1/2, par. 1163.1)

(Section scheduled to be repealed on December 31, 2029)

Sec. 13.1. Any person establishing, constructing, or modifying a health care facility or portion thereof without obtaining a required permit, or in violation of the terms of the required permit, shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility until the required permit is obtained. In cases of any person discontinuing a hospital facility or category of service without obtaining a required permit, or in violation of the terms of the required permit, no related person shall be eligible to apply for any necessary operating licenses nor shall any related person be eligible for payment by any State agency for services rendered until the required permit is obtained.

(Source: P.A. 88-18.)

(20 ILCS 3960/14) (from Ch. 111 1/2, par. 1164)

(Section scheduled to be repealed on December 31, 2029)

Sec. 14. Any person who has discontinued a hospital or a category of service at a hospital without a permit or exemption issued under this Act or in violation of the terms of such a permit or exemption is guilty of a business offense and may be fined up to $1,000,000. Any person otherwise acquiring major medical equipment or establishing, constructing or

modifying a health care facility without a permit issued under this Act or in violation of the terms of such a permit is guilty of a business offense and may be fined up to $100,000 ~~$25,000~~. The State's Attorneys of the several counties or the Attorney General shall represent the People of the State of Illinois in proceedings under this Section. The State's Attorneys of the several counties or the Attorney General may additionally maintain an action in the name of the People of the State of Illinois for injunction or other process against any person or governmental unit to restrain or prevent the acquisition of major medical equipment, or the establishment, construction or modification of a health care facility without the required permit, or to restrain or prevent the occupancy or utilization of the equipment acquired or facility which was constructed or modified without the required permit. Proceedings ~~The prosecution of an offense~~ under this Section, including the prosecution of an offense, shall not prohibit the imposition of any other sanction provided under this Act.

(Source: P.A. 88-18.)

(20 ILCS 3960/14.05 new)

Sec. 14.05. Right of action. Any person aggrieved by a violation of this Act, due to a negative impact on their access to health care or on their health due to diminished access to health care, involving the discontinuation of a hospital or a discontinuation of a category of service at a hospital without

a permit or exemption as required by this Act shall have a right of action in a State circuit court or as a supplemental claim in federal district court against an offending party. A prevailing party may recover for each violation: (i) any actual damages; (ii) an injunction or other relief as the court may deem appropriate; and (iii) reasonable attorney's fees.

(20 ILCS 3960/14.1)

(Section scheduled to be repealed on December 31, 2029)

Sec. 14.1. Denial of permit; other sanctions.

(a) The State Board may deny an application for a permit or may revoke or take other action as permitted by this Act with regard to a permit as the State Board deems appropriate, including the imposition of fines as set forth in this Section, for any one or a combination of the following:

(1) The acquisition of major medical equipment without a permit or in violation of the terms of a permit.

(2) The establishment, construction, modification, or change of ownership of a health care facility without a permit or exemption or in violation of the terms of a permit.

(3) The violation of any provision of this Act or any rule adopted under this Act.

(4) The failure, by any person subject to this Act, to provide information requested by the State Board or Agency

within 30 days after a formal written request for the information.

(5) The failure to pay any fine imposed under this Section within 30 days of its imposition.

(a-5) For facilities licensed under the ID/DD Community Care Act, no permit shall be denied on the basis of prior operator history, other than for actions specified under item (2), (4), or (5) of Section 3-117 of the ID/DD Community Care Act. For facilities licensed under the MC/DD Act, no permit shall be denied on the basis of prior operator history, other than for actions specified under item (2), (4), or (5) of Section 3-117 of the MC/DD Act. For facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013, no permit shall be denied on the basis of prior operator history, other than for actions specified under subsections (a) and (b) of Section 4-109 of the Specialized Mental Health Rehabilitation Act of 2013. For facilities licensed under the Nursing Home Care Act, no permit shall be denied on the basis of prior operator history, other than for: (i) actions specified under item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing Home Care Act; (ii) actions specified under item (a)(6) of Section 3-119 of the Nursing Home Care Act; or (iii) actions within the preceding 5 years constituting a substantial and repeated failure to comply with the Nursing Home Care Act or the rules and regulations adopted by the Department under that Act. The State Board shall not

deny a permit on account of any action described in this subsection (a-5) without also considering all such actions in the light of all relevant information available to the State Board, including whether the permit is sought to substantially comply with a mandatory or voluntary plan of correction associated with any action described in this subsection (a-5).

(b) Persons shall be subject to fines as provided in this subsection (b). The maximum fines imposed under this subsection (b) shall be annually adjusted and proportional with the increase in construction costs due to inflation, for major medical equipment and for all other capital expenditures. ~~as follows:~~

(1) A permit holder who fails to comply with the requirements of maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues.

(2) A permit holder who alters the scope of an approved project or whose project costs exceed the allowable permit amount without first obtaining approval from the State Board shall be fined an amount not to exceed the sum of (i) the lesser of $40,000 ~~$25,000~~ or 2% of the approved permit amount and (ii) in those cases where the approved permit amount is exceeded by more than $1,000,000, an additional $40,000 ~~$20,000~~ for each

$1,000,000, or fraction thereof, in excess of the approved permit amount.

(2.5) A permit or exemption holder who fails to comply with the post-permit and reporting requirements set forth in Sections 5 and 8.5 shall be fined an amount not to exceed $18,000 ~~$10,000~~ plus an additional $18,000 ~~$10,000~~ for each 30-day period, or fraction thereof, that the violation continues. The accrued fine is not waived by the permit or exemption holder submitting the required information and reports. Prior to any fine beginning to accrue, the Board shall notify, in writing, a permit or exemption holder of the due date for the post-permit and reporting requirements no later than 30 days before the due date for the requirements. The exemption letter shall serve as the notice for exemptions.

(3) A person who acquires major medical equipment or who establishes a category of service without first obtaining a permit or exemption, as the case may be, shall be fined an amount not to exceed $18,000 ~~$10,000~~ for each such acquisition or category of service established plus an additional $18,000 ~~$10,000~~ for each 30-day period, or fraction thereof, that the violation continues.

(4) A person who constructs, modifies, establishes, or changes ownership of a health care facility without first obtaining a permit or exemption shall be fined an amount not to exceed $40,000 ~~$25,000~~ plus an additional $40,000

~~$25,000~~ for each 30-day period, or fraction thereof, that the violation continues.

(5) A person who discontinues a health care facility other than a hospital or a category of service at a health care facility other than a hospital without first obtaining a permit or exemption shall be fined an amount not to exceed $25,000 ~~$10,000~~ plus an additional $25,000 ~~$10,000~~ for each 30-day period, or fraction thereof, that the violation continues. For purposes of this subparagraph (5), facilities licensed under the Nursing Home Care Act, the ID/DD Community Care Act, or the MC/DD Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act, the ID/DD Community Care Act, or the MC/DD Act must comply with Section 3-423 of the Nursing Home Care Act, Section 3-423 of the ID/DD Community Care Act, or Section 3-423 of the MC/DD Act and must provide the Board and the Department of Human Services with 30 days' written notice of their intent to close. Facilities licensed under the ID/DD Community Care Act or the MC/DD Act also must provide the Board and the Department of Human Services with 30 days' written notice of their intent to reduce the number of beds for a facility.

(5.5) A person who discontinues a hospital facility or category of service without first obtaining a permit or

exemption shall be fined an amount not to exceed $100,000 plus an additional $100,000 for each 30-day period, or fraction thereof, that the violation continues.

(6) A person subject to this Act who fails to provide information requested by the State Board or Agency within 30 days of a formal written request shall be fined an amount not to exceed $2,000 ~~$1,000~~ plus an additional $2,000 ~~$1,000~~ for each 30-day period, or fraction thereof, that the information is not received by the State Board or Agency.

(b-5) Notwithstanding any other provision of this Act, the State board may not accept in-kind services or donations instead of or in combination with any fine imposed on a person due to their discontinuation of a hospital or a category of service at a hospital. ~~The State Board may accept in-kind services or donations instead of or in combination with the imposition of a fine. This authorization is limited to cases where the non compliant individual or entity has waived the right to an administrative hearing or opportunity to appear before the Board regarding the non-compliant matter.~~

(c) Before imposing any fine authorized under this Section, the State Board shall afford the person or permit holder, as the case may be, an appearance before the State Board and an opportunity for a hearing before a hearing officer appointed by the State Board. The hearing shall be conducted in accordance with Section 10. Requests for an

appearance before the State Board must be made within 30 days after receiving notice that a fine will be imposed.

(d) All fines collected under this Act shall be transmitted to the State Treasurer, who shall deposit them into the Illinois Health Facilities Planning Fund.

(e) Fines imposed under this Section shall continue to accrue until: (i) the date that the matter is referred by the State Board to the Board's legal counsel; or (ii) the date that the health care facility becomes compliant with the Act, whichever is earlier.

(Source: P.A. 99-114, eff. 7-23-15; 99-180, eff. 7-29-15; 99-527, eff. 1-1-17; 99-642, eff. 6-28-16; 100-681, eff. 8-3-18.)

(20 ILCS 3960/14.2 new)

Sec. 14.2. Receivership.

(a) Should a person attempt to discontinue a hospital facility or category of service without first obtaining a permit or exemption, the State Board may file a verified petition to the circuit court for the county in which the facility is located for an order placing the facility under the control of a receiver.

(b) The court shall hold a hearing within 5 days after the filing of the petition. The petition and notice of the hearing shall be served on the owner, administrator or designated agent of the facility as provided under the Civil Practice

Law, or the petition and notice of hearing shall be posted in a conspicuous place in the facility not later than 3 days before the time specified for the hearing, unless a different period is fixed by order of the court.

(c) The court may appoint any qualified person as receiver, except it shall not appoint any owner or related person of the facility which is in receivership as its receiver. The State Board shall maintain a list of such persons to operate facilities which the court may consider.

(d) The receiver shall make provisions for the continued health, safety, and welfare of all patients utilizing the facility.

(e) A receiver appointed under this Act:

(1) Shall exercise those powers and shall perform those duties set out by the court.

(2) Shall operate the facility in such a manner as to assure the safety and adequate health care for patients.

(3) Shall have the same rights to possession of the building in which the facility is located and all goods and fixtures in the building at the time the petition for receivership is filed as the owner would have had if the receiver had not been appointed, and of all assets of the facility. The receiver shall take such action as reasonably necessary to protect or conserve the assets or property of which the receiver takes possession, or the proceeds from any transfer thereof, and may use them only

in the performance of the powers and duties set forth in this Section and by order of the court.

(4) May use the building, fixtures, furnishing and any accompanying consumable goods in the provision of care and services to patients receiving services from the facility. The receiver shall collect payments for all goods and services provided to patients during the period of the receivership at the same rate of payment charged by the operator at the time the petition for receivership was filed.

(5) May let contracts and hire agents and employees to carry out the powers and duties of the receiver under this Section.

(6) Shall honor all leases, mortgages and secured transactions governing the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payment which, in the case of a purchase agreement, come due during the period of receivership.

(7) Shall have full power to direct and manage and to discharge employees of the facility, subject to any contract rights they may have. The receiver shall pay employees at minimum the same rate of compensation, including benefits, that the employees would have received from the obligation to employees not carried out by the receiver.

(8) Shall report to the court any actions they believe should be continued when the receivership is terminated.

(f) A person who is served with notice of an order of the court appointing a receiver and of the receiver's name and address shall be liable to pay the receiver for any goods or services provided by the receiver after the date of the date of the order if the person would have been liable for the goods or services as supplied by the owner. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit amounts received in a separate account and shall use this account for all disbursements. The receiver may bring an action to enforce the liability created by this subsection.

(g) If there are insufficient fund on hand to meet the expenses of performing the powers and duties conferred on the receiver, the State Board may reimburse the receiver for those expenses from funds appropriated for its ordinary and contingent expenses by the General Assembly.

(h) In any action or special proceeding brought against a receiver in the receiver's official capacity for acts committed while carrying out powers and duties under this Section, the receiver shall be considered a public employee. A receiver may be held liable in a personal capacity only for the receivers own gross negligence, intentional acts, or breach of fiduciary duty.

(i) Other provisions of this Act notwithstanding, the

Department may issue a license to a facility placed in receivership. The duration of a license issued under this Section is limited to the duration of the receivership.

(j) The court may terminate a receivership at any time if it determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist, either because the person attempting to discontinue the hospital facility or category of service without first obtaining a permit has obtained a permit allowing them to do so, or because the person attempting to discontinue the hospital facility or category of service without first obtaining a permit has ceased attempting to discontinue the hospital facility or category of service without first obtaining a permit.

Section 15. The Illinois Public Aid Code is amended by changing Section 5A-17 as follows:

(305 ILCS 5/5A-17)

Sec. 5A-17. Recovery of payments; liens.

(a) As a condition of receiving payments pursuant to subsections (d) and (k) of Section 5A-12.7 for State Fiscal Year 2021, a for-profit general acute care hospital that ceases to provide hospital services before July 1, 2021 and within 12 months of a change in the hospital's ownership status from not-for-profit to investor owned, shall be

obligated to pay to the Department an amount equal to the payments received pursuant to subsections (d) and (k) of Section 5A-12.7 since the change in ownership status to the cessation of hospital services. The obligated amount shall be due immediately and must be paid to the Department within 10 days of ceasing to provide services or pursuant to a payment plan approved by the Department unless the hospital requests a hearing under paragraph (d) of this Section. The obligation under this Section shall not apply to a hospital that ceases to provide services under circumstances that include: implementation of a transformation project approved by the Department under subsection (d-5) of Section 14-12; emergencies as declared by federal, State, or local government; actions approved or required by federal, State, or local government; actions taken in compliance with the Illinois Health Facilities Planning Act; or other circumstances beyond the control of the hospital provider or for the benefit of the community previously served by the hospital, as determined on a case-by-case basis by the Department.

(a-5) As a condition of receiving payments pursuant to subsections (d) and (k) of Section 5A-12.7 for calendar year 2021, a general acute care hospital that ceases to provide hospital services before January 1, 2022 shall be obligated to pay to the Department an amount equal to the payments received pursuant to subsections (d) and (k) of Section 5A-12.7 up to

the cessation of hospital services. The obligated amount shall be due immediately and must be paid to the Department within 30 days of ceasing to provide services, or pursuant to a payment plan approved by the Department. The obligation under this Section shall not apply to a hospital that ceases to provide services under circumstances that include: (i) implementation of a transformation project approved under subsection (d-5) of Section 14-12; (ii) emergencies as declared by federal, State, or local government; (iii) actions approved or required by federal, State, or local government; (iv) actions taken in compliance with the Illinois Health Facilities Planning Act; or (v) other circumstances beyond the control of the hospital provider or for the benefit of the community previously served by the hospital, as determined on a case-by-case basis by the Department.

(b) The Illinois Department shall administer and enforce this Section and collect the obligations imposed under this Section using procedures employed in its administration of this Code generally. The Illinois Department, its Director, and every hospital provider subject to this Section shall have the following powers, duties, and rights:

(1) The Illinois Department may initiate either administrative or judicial proceedings, or both, to enforce the provisions of this Section. Administrative enforcement proceedings initiated hereunder shall be governed by the Illinois Department's administrative

rules. Judicial enforcement proceedings initiated in accordance with this Section shall be governed by the rules of procedure applicable in the courts of this State.

(2) No proceedings for collection, refund, credit, or other adjustment of an amount payable under this Section shall be issued more than 3 years after the due date of the obligation, except in the case of an extended period agreed to in writing by the Illinois Department and the hospital provider before the expiration of this limitation period.

(3) Any unpaid obligation under this Section shall become a lien upon the assets of the hospital. If any hospital provider sells or transfers the major part of any one or more of (i) the real property and improvements, (ii) the machinery and equipment, or (iii) the furniture or fixtures of any hospital that is subject to the provisions of this Section, the seller or transferor shall pay the Illinois Department the amount of any obligation due from it under this Section up to the date of the sale or transfer. If the seller or transferor fails to pay any amount due under this Section, the purchaser or transferee of such asset shall be liable for the amount of the obligation up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The purchaser or transferee shall continue to be liable until the purchaser or transferee pays the full amount of the

obligation up to the amount of the reasonable value of the property acquired by the purchaser or transferee or until the purchaser or transferee receives from the Illinois Department a certificate showing that such assessment, penalty, and interest have been paid or a certificate from the Illinois Department showing that no amount is due from the seller or transferor under this Section.

(c) In addition to any other remedy provided for, the Illinois Department may collect an unpaid obligation by withholding, as payment of the amount due, reimbursements or other amounts otherwise payable by the Illinois Department to the hospital provider.

(Source: P.A. 101-650, eff. 7-7-20.)

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

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Statutes amended in order of appearance