

1 AN ACT concerning health facilities.

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

4 Section 5. The Illinois Health Facilities Planning Act is  
5 amended by changing Sections 3, 4, 5.3, 6, 10, 12, 12.2, 13,  
6 and 19.6 and by adding Section 12.3 as follows:

7 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

8 (Section scheduled to be repealed on July 1, 2003)

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

10 "Health care facilities" means and includes the following  
11 facilities and organizations:

12 1. An ambulatory surgical treatment center required  
13 to be licensed pursuant to the Ambulatory Surgical  
14 Treatment Center Act;

15 2. An institution, place, building, or agency  
16 required to be licensed pursuant to the Hospital  
17 Licensing Act;

18 3. Skilled and intermediate long term care  
19 facilities licensed under the Nursing Home Care Act;

20 3. Skilled and intermediate long term care  
21 facilities licensed under the Nursing Home Care Act;

22 4. Hospitals, nursing homes, ambulatory surgical  
23 treatment centers, or kidney disease treatment centers  
24 maintained by the State or any department or agency  
25 thereof;

26 5. Kidney disease treatment centers, including a  
27 free-standing hemodialysis unit; and

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

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

4           No facility licensed under the Supportive Residences  
5 Licensing Act or the Assisted Living and Shared Housing Act  
6 shall be subject to the provisions of this Act.

7           A facility designated as a supportive living facility  
8 that is in good standing with the demonstration project  
9 established under Section 5-5.01a of the Illinois Public Aid  
10 Code shall not be subject to the provisions of this Act.

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

17           This Act shall not apply to the closure of an entity or a  
18 portion of an entity licensed under the Nursing Home Care Act  
19 that elects to convert, in whole or in part, to an assisted  
20 living or shared housing establishment licensed under the  
21 Assisted Living and Shared Housing Establishment Act.

22           With the exception of those health care facilities  
23 specifically included in this Section, nothing in this Act  
24 shall be intended to include facilities operated as a part of  
25 the practice of a physician or other licensed health care  
26 professional, whether practicing in his individual capacity  
27 or within the legal structure of any partnership, medical or  
28 professional corporation, or unincorporated medical or  
29 professional group. Further, this Act shall not apply to  
30 physicians or other licensed health care professional's  
31 practices where such practices are carried out in a portion  
32 of a health care facility under contract with such health  
33 care facility by a physician or by other licensed health care  
34 professionals, whether practicing in his individual capacity

1 or within the legal structure of any partnership, medical or  
2 professional corporation, or unincorporated medical or  
3 professional groups. This Act shall apply to construction or  
4 modification and to establishment by such health care  
5 facility of such contracted portion which is subject to  
6 facility licensing requirements, irrespective of the party  
7 responsible for such action or attendant financial  
8 obligation.

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

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

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

23 "Construction or modification" means the establishment,  
24 erection, building, alteration, reconstruction,  
25 modernization, improvement, extension, discontinuation,  
26 change of ownership, of or by a health care facility, or the  
27 purchase or acquisition by or through a health care facility  
28 of equipment or service for diagnostic or therapeutic  
29 purposes or for facility administration or operation, or any  
30 capital expenditure made by or on behalf of a health care  
31 facility which exceeds the capital expenditure minimum;  
32 however, any capital expenditure made by or on behalf of a  
33 health care facility for the construction or modification of  
34 a facility licensed under the Assisted Living and Shared

1 Housing Act shall be excluded from any obligations under this  
2 Act.

3 "Establish" means the construction of a health care  
4 facility or the replacement of an existing facility on  
5 another site.

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

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

29 For the purpose of this paragraph, the cost of any  
30 studies, surveys, designs, plans, working drawings,  
31 specifications, and other activities essential to the  
32 acquisition, improvement, expansion, or replacement of any  
33 plant or equipment with respect to which an expenditure is  
34 made shall be included in determining if such expenditure

1 exceeds the capital expenditures minimum. Donations of  
2 equipment or facilities to a health care facility which if  
3 acquired directly by such facility would be subject to review  
4 under this Act shall be considered capital expenditures, and  
5 a transfer of equipment or facilities for less than fair  
6 market value shall be considered a capital expenditure for  
7 purposes of this Act if a transfer of the equipment or  
8 facilities at fair market value would be subject to review.

9 "Capital expenditure minimum" means \$6,000,000, which  
10 shall be annually adjusted to reflect the increase in  
11 construction costs due to inflation, for major medical  
12 equipment and for all other capital expenditures; provided,  
13 however, that when a capital expenditure is for the  
14 construction or modification of a health and fitness center,  
15 "capital expenditure minimum" means the capital expenditure  
16 minimum for all other capital expenditures in effect on March  
17 1, 2000, which shall be annually adjusted to reflect the  
18 increase in construction costs due to inflation.

19 "Non-clinical service area" means an area (i) for the  
20 benefit of the patients, visitors, staff, or employees of a  
21 health care facility and (ii) not directly related to the  
22 diagnosis, treatment, or rehabilitation of persons receiving  
23 services from the health care facility. "Non-clinical  
24 service areas" include, but are not limited to, chapels; gift  
25 shops; news stands; computer systems; tunnels, walkways, and  
26 elevators; telephone systems; projects to comply with life  
27 safety codes; educational facilities; student housing;  
28 patient, employee, staff, and visitor dining areas;  
29 administration and volunteer offices; modernization of  
30 structural components (such as roof replacement and masonry  
31 work); boiler repair or replacement; vehicle maintenance and  
32 storage facilities; parking facilities; mechanical systems  
33 for heating, ventilation, and air conditioning; loading  
34 docks; and repair or replacement of carpeting, tile, wall

1 coverings, window coverings or treatments, or furniture.  
2 Solely for the purpose of this definition, "non-clinical  
3 service area" does not include health and fitness centers.

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

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

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

19 "Local health planning organization" means those local  
20 health planning organizations that are designated as such by  
21 the areawide health planning organization of the appropriate  
22 area.

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

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

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

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

31 "Comprehensive health planning" means health planning  
32 concerned with the total population and all health and  
33 associated problems that affect the well-being of people and  
34 that encompasses health services, health manpower, and health

1 facilities; and the coordination among these and with those  
2 social, economic, and environmental factors that affect  
3 health.

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

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

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

31 "Related person" means any person that: (i) is at least  
32 50% owned, directly or indirectly, by either the health care  
33 facility or a person owning, directly or indirectly, at least  
34 50% of the health care facility; or (ii) owns, directly or

1 indirectly, at least 50% of the health care facility.

2 (Source: P.A. 90-14, eff. 7-1-97; 91-656, eff. 1-1-01;  
3 91-782, eff. 6-9-00; revised 11-6-02.)

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

5 (Section scheduled to be repealed on July 1, 2003)

6 Sec. 4. Health Facilities Planning Board; membership;  
7 appointment; term; compensation; quorum. There is created  
8 the Health Facilities Planning Board, which shall perform the  
9 such functions as-hereinafter described in this Act.

10 Notwithstanding any provision of this Section to the  
11 contrary, the term of office of each member of the State  
12 Board is abolished on the effective date of this amendatory  
13 Act of the 93rd General Assembly, but all incumbent members  
14 shall continue to exercise all of the powers and be subject  
15 to all of the duties of members of the State Board until all  
16 new members of the 9-member State Board authorized under this  
17 amendatory Act of the 93rd General Assembly are appointed and  
18 take office. Beginning on the effective date of this  
19 amendatory Act of the 93rd General Assembly, the State Board  
20 shall consist of 9 voting members. The--State--Board--shall  
21 consist--of--15--voting--members,--including:--8--consumer--members;  
22 one--member--representing--the--commercial--health--insurance  
23 industry--in--Illinois;--one--member--representing--hospitals--in  
24 Illinois;--one--member--who--is--actively--engaged--in--the--field--of  
25 hospital--management;--one--member--who--is--a--professional--nurse  
26 registered--in--Illinois;--one--member--who--is--a--physician--in  
27 active--private--practice--licensed--in--Illinois--to--practice  
28 medicine--in--all--of--its--branches;--one--member--who--is--actively  
29 engaged--in--the--field--of--skilled--nursing--or--intermediate--care  
30 facility--management;--and--one--member--who--is--actively--engaged  
31 in--the--administration--of--an--ambulatory--surgical--treatment  
32 center--licensed--under--the--Ambulatory--Surgical--Treatment  
33 Center--Act.



1           The State Board shall be appointed by the Governor, with  
2           the advice and consent of the Senate. In--making---the  
3           appointments,---the--Governor--shall--give--consideration--to  
4           recommendations-made-by-(1)--the--professional--organizations  
5           concerned---with---hospital---management---for--the--hospital  
6           management--appointment,---(2)---professional---organizations  
7           concerned--with--long--term--care-facility-management-for-the  
8           long--term--care---facility---management---appointment,---(3)  
9           professional---medical---organizations---for---the--physician  
10          appointment,---(4)--professional-nursing-organizations--for--the  
11          nurse---appointment,---and---(5)--professional--organizations  
12          concerned-with-ambulatory-surgical-treatment-centers-for--the  
13          ambulatory--surgical--treatment-center-appointment,--and--shall  
14          appoint--as--consumer--members--individuals---familiar---with  
15          community--health--needs-but-whose-interest-in-the-operation,  
16          construction-or-utilization-of--health--care--facilities--are  
17          derived---from--factors--other--than--those--related--to--his  
18          profession,--business,--or-economic-gain,--and-who-represent,--so  
19          far-as-possible,--different-geographic-areas-of-the-State. Not  
20          more than 5 8 of the appointments shall be of the same  
21          political party. No person shall be appointed as a State  
22          Board member if that person has served, after the effective  
23          date of this amendatory Act of the 93rd General Assembly, 2  
24          3-year terms as a State Board member, except for ex officio  
25          non-voting members.

26          The Secretary of Human Services, the Director of Public  
27          Aid, and the Director of Public Health, or their designated  
28          representatives, shall serve as ex-officio, non-voting  
29          members of the State Board.

30          Of those members initially appointed by the Governor  
31          under this amendatory Act of the 93rd General Assembly, 3  
32          shall serve for terms expiring July 1, 2004, 3 shall serve  
33          for terms expiring July 1, 2005, and 3 shall serve for terms  
34          expiring July 1, 2006. Thereafter, as-voting--members, each

1 appointed member shall hold office for a term of 3 years, <sup>+</sup>  
2 provided, that any member appointed to fill a vacancy  
3 occurring prior to the expiration of the term for which his  
4 predecessor was appointed shall be appointed for the  
5 remainder of such term and the term of office of each  
6 successor shall commence on July 1 of the year in which his  
7 predecessor's term expires. ~~In making original appointments~~  
8 ~~to the State Board, the Governor shall appoint 5 members for~~  
9 ~~a term of one year, 5 for a term of 2 years, and 3 for a term~~  
10 ~~of 3 years, and each of these terms of office shall commence~~  
11 ~~on July 1, 1974. The initial term of office for the members~~  
12 ~~appointed under this amendatory Act of 1996 shall begin on~~  
13 ~~July 1, 1996 and shall last for 2 years, and each subsequent~~  
14 ~~appointment shall be for a term of 3 years.~~ Each member shall  
15 hold office until his successor is appointed and qualified.

16 State Board members, while serving on business of the  
17 State Board, shall receive actual and necessary travel and  
18 subsistence expenses while so serving away from their places  
19 of residence. A member of the State Board who experiences a  
20 significant financial hardship due to the loss of income on  
21 days of attendance at meetings or while otherwise engaged in  
22 the business of the State Board may be paid a hardship  
23 allowance, as determined by and subject to the approval of  
24 the Governor's Travel Control Board. ~~In addition, while~~  
25 ~~serving on business of the State Board, each member shall~~  
26 ~~receive compensation of \$150 per day, except that such~~  
27 ~~compensation shall not exceed \$7,500 in any one year for any~~  
28 ~~member.~~

29 The Governor shall designate one of the members to serve  
30 as Chairman and ~~The State Board shall provide for its own~~  
31 ~~organization and procedures, including the selection of a~~  
32 ~~Chairman and such other officers as deemed necessary.~~ ~~The~~  
33 ~~Director, with concurrence of the State Board,~~ shall name as  
34 full-time Executive Secretary of the State Board, a person

1 qualified in health care facility planning and in  
2 administration. The Agency shall provide administrative and  
3 staff support for the State Board. The State Board shall  
4 advise the Director of its budgetary and staff needs and  
5 consult with the Director on annual budget preparation.

6 The State Board shall meet at least once each quarter, or  
7 as often as the Chairman of the State Board deems necessary,  
8 or upon the request of a majority of the members.

9 Five ~~Eight~~ members of the State Board shall constitute a  
10 quorum. The affirmative vote of 5 ~~8~~ of the members of the  
11 State Board shall be necessary for any action requiring a  
12 vote to be taken by the State Board. A vacancy in the  
13 membership of the State Board shall not impair the right of a  
14 quorum to exercise all the rights and perform all the duties  
15 of the State Board as provided by this Act.

16 A State Board member shall disqualify himself or herself  
17 from the consideration of any application for a permit or  
18 exemption in which the State Board member or the State Board  
19 member's spouse, parent, or child: (i) has an economic  
20 interest in the matter; or (ii) is employed by, serves as a  
21 consultant for, or is a member of the governing board of the  
22 applicant or a party opposing the application.

23 (Source: P.A. 90-14, eff. 7-1-97; 91-782, eff. 6-9-00.)

24 (20 ILCS 3960/5.3)

25 (Section scheduled to be repealed on July 1, 2003)

26 Sec. 5.3. Annual report of capital expenditures. In  
27 addition to the State Board's authority to require reports,  
28 the State Board shall require each health care facility to  
29 submit an annual report of all capital expenditures in excess  
30 of \$200,000 (which shall be annually adjusted to reflect the  
31 increase in construction costs due to inflation) made by the  
32 health care facility during the most recent year. This  
33 annual report shall consist of a brief description of the

1 capital expenditure, the amount and method of financing the  
2 capital expenditure, the certificate of need project number  
3 if the project was reviewed, and the total amount of capital  
4 expenditures obligated for the year. Data collected from  
5 health care facilities pursuant to this Section shall not  
6 duplicate or overlap other data collected by the Department  
7 and must be collected as part of the Department's Annual  
8 Questionnaires or supplements for health care facilities that  
9 report these data.

10 (Source: P.A. 91-782, eff. 6-9-00.)

11 (20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

12 (Section scheduled to be repealed on July 1, 2003)

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

15 (a) An application for a permit or exemption shall be  
16 made to the State Board upon forms provided by the State  
17 Board. This application shall contain such information as  
18 the State Board deems necessary. Such application shall  
19 include affirmative evidence on which the Director may make  
20 the findings required under this Section and upon which the  
21 State Board may make its decision on the approval or denial  
22 of the permit or exemption.

23 (b) The State Board shall establish by regulation the  
24 procedures and requirements regarding issuance of exemptions.  
25 An exemption shall be approved when information required by  
26 the Board by rule is submitted. Projects eligible for an  
27 exemption, rather than a permit, include, but are not limited  
28 to, change of ownership of a health care facility. For a  
29 change of ownership of a health care facility between related  
30 persons, the State Board shall provide by rule for an  
31 expedited process for obtaining an exemption.

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

1        (d) Upon receipt of an application for a permit, the  
2 State Board shall approve and authorize the issuance of a  
3 permit if it finds (1) that the applicant is fit, willing,  
4 and able to provide a proper standard of health care service  
5 for the community with particular regard to the  
6 qualification, background and character of the applicant, (2)  
7 that economic feasibility is demonstrated in terms of effect  
8 on the existing and projected operating budget of the  
9 applicant and of the health care facility; in terms of the  
10 applicant's ability to establish and operate such facility in  
11 accordance with licensure regulations promulgated under  
12 pertinent state laws; and in terms of the projected impact on  
13 the total health care expenditures in the facility and  
14 community, (3) that safeguards are provided which assure that  
15 the establishment, construction or modification of the health  
16 care facility or acquisition of major medical equipment is  
17 consistent with the public interest, and (4) that the  
18 proposed project is consistent with the orderly and economic  
19 development of such facilities and equipment and is in accord  
20 with standards, criteria, or plans of need adopted and  
21 approved pursuant to the provisions of Section 12 of this  
22 Act.

23        (Source: P.A. 88-18.)

24        (20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)

25        (Section scheduled to be repealed on July 1, 2003)

26        Sec. 10. Presenting information relevant to the approval  
27 of a permit or certificate or in opposition to the denial of  
28 the application; notice of outcome and review proceedings.

29 When a motion by the State Board, to approve an application  
30 for a permit or a certificate of recognition, fails to pass,  
31 or when a motion to deny an application for a permit or a  
32 certificate of recognition is passed, the applicant or the  
33 holder of the permit, as the case may be, and such other

1 parties as the State Board permits, will be given an  
2 opportunity to appear before the State Board and present such  
3 information as may be relevant to the approval of a permit or  
4 certificate or in opposition to the denial of the  
5 application.

6 Subsequent to an appearance by the applicant before the  
7 State Board or default of such opportunity to appear, a  
8 motion by the State Board to approve an application for a  
9 permit or a certificate of recognition which fails to pass or  
10 a motion to deny an application for a permit or a certificate  
11 of recognition which passes shall be considered denial of  
12 the application for a permit or certificate of recognition,  
13 as the case may be. Such action of denial or an action by  
14 the State Board to revoke a permit or a certificate of  
15 recognition shall be communicated to the applicant or holder  
16 of the permit or certificate of recognition. Such person or  
17 organization shall be afforded an opportunity for a hearing  
18 before a hearing officer, who is appointed by the Director  
19 State--Board. A written notice of a request for such hearing  
20 shall be served upon the Chairman of the State Board within  
21 30 days following notification of the decision of the State  
22 Board. The State Board shall schedule a hearing, and the  
23 Director ~~Chairman~~ shall appoint a hearing officer within 30  
24 days thereafter. The hearing officer shall take actions  
25 necessary to ensure that the hearing is completed within a  
26 reasonable period of time, but not to exceed 90 days, except  
27 for delays or continuances agreed to by the person requesting  
28 the hearing. Following its consideration of the report of  
29 the hearing, or upon default of the party to the hearing, the  
30 State Board shall make its final determination, specifying  
31 its findings and conclusions within 45 days of receiving the  
32 written report of the hearing. A copy of such determination  
33 shall be sent by certified mail or served personally upon the  
34 party.

1           A full and complete record shall be kept of all  
2 proceedings, including the notice of hearing, complaint, and  
3 all other documents in the nature of pleadings, written  
4 motions filed in the proceedings, and the report and orders  
5 of the State Board or hearing officer. All testimony shall be  
6 reported but need not be transcribed unless the decision is  
7 appealed in accordance with the Administrative Review Law, as  
8 now or hereafter amended. A copy or copies of the transcript  
9 may be obtained by any interested party on payment of the  
10 cost of preparing such copy or copies.

11           The State Board or hearing officer shall upon its own or  
12 his motion, or on the written request of any party to the  
13 proceeding who has, in the State Board's or hearing officer's  
14 opinion, demonstrated the relevancy of such request to the  
15 outcome of the proceedings, issue subpoenas requiring the  
16 attendance and the giving of testimony by witnesses, and  
17 subpoenas duces tecum requiring the production of books,  
18 papers, records, or memoranda. The fees of witnesses for  
19 attendance and travel shall be the same as the fees of  
20 witnesses before the circuit court of this State.

21           When the witness is subpoenaed at the instance of the  
22 State Board, or its hearing officer, such fees shall be paid  
23 in the same manner as other expenses of the Agency, and when  
24 the witness is subpoenaed at the instance of any other party  
25 to any such proceeding the State Board may, in accordance  
26 with the rules of the Agency, require that the cost of  
27 service of the subpoena or subpoena duces tecum and the fee  
28 of the witness be borne by the party at whose instance the  
29 witness is summoned. In such case, the State Board in its  
30 discretion, may require a deposit to cover the cost of such  
31 service and witness fees. A subpoena or subpoena duces tecum  
32 so issued shall be served in the same manner as a subpoena  
33 issued out of a court.

34           Any circuit court of this State upon the application of

1 the State Board or upon the application of any other party to  
2 the proceeding, may, in its discretion, compel the attendance  
3 of witnesses, the production of books, papers, records, or  
4 memoranda and the giving of testimony before it or its  
5 hearing officer conducting an investigation or holding a  
6 hearing authorized by this Act, by an attachment for  
7 contempt, or otherwise, in the same manner as production of  
8 evidence may be compelled before the court.

9 (Source: P.A. 88-18; 89-276, eff. 8-10-96.)

10 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

11 (Section scheduled to be repealed on July 1, 2003)

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

15 (1) Prescribe rules, regulations, standards, criteria,  
16 procedures or reviews which may vary according to the purpose  
17 for which a particular review is being conducted or the type  
18 of project reviewed and which are required to carry out the  
19 provisions and purposes of this Act.

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

23 (3) Prescribe criteria for recognition for areawide  
24 health planning organizations, including, but not limited to,  
25 standards for evaluating the scientific bases for judgments  
26 on need and procedure for making these determinations.

27 (4) Develop criteria and standards for health care  
28 facilities planning, conduct statewide inventories of health  
29 care facilities, maintain an updated inventory on the  
30 Department's web site reflecting the most recent bed and  
31 service changes and updated need determinations when new  
32 census data become available or new need formulae are  
33 adopted, and develop health care facility plans which shall



1 be utilized in the review of applications for permit under  
2 this Act. Such health facility plans shall be coordinated by  
3 the Agency with the health care facility plans areawide  
4 health planning organizations and with other pertinent State  
5 Plans.

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

8 (a) The size, composition and growth of the  
9 population of the area to be served;

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

12 (c) The extent of utilization of existing  
13 facilities;

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

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

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

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

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

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

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

34 (6) Solicit, accept, hold and administer on behalf of

1 the State any grants or bequests of money, securities or  
2 property for use by the State Board or recognized areawide  
3 health planning organizations in the administration of this  
4 Act; and enter into contracts consistent with the  
5 appropriations for purposes enumerated in this Act.

6 (7) The State Board shall prescribe, in consultation  
7 with the recognized areawide health planning organizations,  
8 procedures for review, standards, and criteria which shall be  
9 utilized to make periodic areawide reviews and determinations  
10 of the appropriateness of any existing health services being  
11 rendered by health care facilities subject to the Act. The  
12 State Board shall consider recommendations of the areawide  
13 health planning organization and the Agency in making its  
14 determinations.

15 (8) Prescribe, in consultation with the recognized  
16 areawide health planning organizations, rules, regulations,  
17 standards, and criteria for the conduct of an expeditious  
18 review of applications for permits for projects of  
19 construction or modification of a health care facility, which  
20 projects are non-substantive in nature. Such rules shall not  
21 abridge the right of areawide health planning organizations  
22 to make recommendations on the classification and approval of  
23 projects, nor shall such rules prevent the conduct of a  
24 public hearing upon the timely request of an interested  
25 party. Such reviews shall not exceed 60 days from the date  
26 the application is declared to be complete by the Agency.

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

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

8           (Source: P.A. 88-18; 89-276, eff. 8-10-95.)

9           (20 ILCS 3960/12.2)

10           (Section scheduled to be repealed on July 1, 2003)

11           Sec. 12.2. Powers of the Agency. For purposes of this  
12 Act, the Agency shall exercise the following powers and  
13 duties:

14           (1) Review applications for permits and exemptions in  
15 accordance with the standards, criteria, and plans of need  
16 established by the State Board under this Act and certify its  
17 finding to the State Board.

18           (1.5) Post the following on the Department's web site:  
19 relevant (i) rules, (ii) standards, (iii) criteria, (iv)  
20 State norms, (v) references used by Agency staff in making  
21 determinations about whether application criteria are met,  
22 and (vi) notices of project-related filings, including notice  
23 of public comments related to the application.

24           (2) Charge and collect an amount determined by the State  
25 Board to be reasonable fees for the processing of  
26 applications by the State Board, the Agency, and the  
27 appropriate recognized areawide health planning organization.  
28 The State Board shall set the amounts by rule. All fees and  
29 fines collected under the provisions of this Act shall be  
30 deposited into the Illinois Health Facilities Planning Fund  
31 to be used for the expenses of administering this Act.

32           (3) Coordinate with other State agencies having  
33 responsibilities affecting health care facilities, including

1 those of licensure and cost reporting.

2 (Source: P.A. 89-276, eff. 8-10-95; 90-14, eff. 7-1-97.)

3 (20 ILCS 3960/12.3 new)

4 (Section scheduled to be repealed on July 1, 2003)

5 Sec. 12.3. Revision of criteria, standards, and rules.

6 Before December 31, 2004, the State Board shall review,

7 revise, and promulgate the criteria, standards, and rules

8 used to evaluate applications for permit. To the extent

9 practicable, the criteria, standards, and rules shall be

10 based on objective criteria. In particular, the review of the

11 criteria, standards, and rules shall consider:

12 (1) Whether the criteria and standards reflect  
13 current industry standards and anticipated trends.

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

16 (3) Whether criteria and standards can be developed  
17 to authorize the construction of unfinished space for  
18 future use when the ultimate need for such space can be  
19 reasonably projected.

20 (4) Whether the criteria and standards take into  
21 account issues related to population growth and changing  
22 demographics in a community.

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

25 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

26 (Section scheduled to be repealed on July 1, 2003)

27 Sec. 13. Investigation of applications for permits and  
28 certificates of recognition. The Agency or the State Board

29 shall make or cause to be made such investigations as it or

30 the State Board deems necessary in connection with an

31 application for a permit or an application for a certificate

32 of recognition, or in connection with a determination of

1 whether or not construction or modification which has been  
2 commenced is in accord with the permit issued by the State  
3 Board or whether construction or modification has been  
4 commenced without a permit having been obtained. The State  
5 Board may issue subpoenas duces tecum requiring the  
6 production of records and may administer oaths to such  
7 witnesses.

8 Any circuit court of this State, upon the application of  
9 the State Board or upon the application of any party to such  
10 proceedings, may, in its discretion, compel the attendance of  
11 witnesses, the production of books, papers, records, or  
12 memoranda and the giving of testimony before the State Board,  
13 by a proceeding as for contempt, or otherwise, in the same  
14 manner as production of evidence may be compelled before the  
15 court.

16 The State Board shall require all health facilities  
17 operating in this State to provide such reasonable reports at  
18 such times and containing such information as is needed by it  
19 to carry out the purposes and provisions of this Act. Prior  
20 to collecting information from health facilities, the State  
21 Board shall make reasonable efforts through a public process  
22 to consult with health facilities and associations that  
23 represent them to determine whether data and information  
24 requests will result in useful information for health  
25 planning, whether sufficient information is available from  
26 other sources, and whether data requested is routinely  
27 collected by health facilities and is available without  
28 retrospective record review. Data and information requests  
29 shall not impose undue paperwork burdens on health care  
30 facilities and personnel. Health facilities not complying  
31 with this requirement shall be reported to licensing,  
32 accrediting, certifying, or payment agencies as being in  
33 violation of State law. Health care facilities and other  
34 parties at interest shall have reasonable access, under rules

1 established by the State Board, to all planning information  
2 submitted in accord with this Act pertaining to their area.

3 (Source: P.A. 89-276, eff. 8-10-95.)

4 (20 ILCS 3960/19.6)

5 (Section scheduled to be repealed on July 1, 2003).

6 Sec. 19.6. Repeal. This Act is repealed on July 1, 2008  
7 2003.

8 (Source: P.A. 91-782, eff. 6-9-00.)

9 Section 10. The Hospital Licensing Act is amended by  
10 changing Sections 8, 8.5, and 9.3 and adding Sections 9.4 and  
11 9.5 as follows:

12 (210 ILCS 85/8) (from Ch. 111 1/2, par. 149)

13 Sec. 8. Facility plan review; fees.

14 (a) Before commencing construction of new facilities or  
15 specified types of alteration or additions to an existing  
16 hospital involving major construction, as defined by rule by  
17 the Department, with an estimated cost greater than \$100,000,  
18 architectural plans and specifications therefor shall be  
19 submitted by the licensee to the Department for review and  
20 approval. A hospital may submit architectural drawings and  
21 specifications for other construction projects for Department  
22 review according to subsection (b) that shall not be subject  
23 to fees under subsection (d). The Department must give a  
24 hospital that is planning to submit a construction project  
25 for review the opportunity to discuss its plans and  
26 specifications with the Department before the hospital  
27 formally submits the plans and specifications for Department  
28 review. Review of drawings and specifications shall be  
29 conducted by an employee of the Department meeting the  
30 qualifications established by the Department of Central  
31 Management Services class specifications for such an

1 individual's position or by a person contracting with the  
2 Department who meets those class specifications. Final  
3 approval of the plans and specifications for compliance with  
4 design and construction standards shall be obtained from the  
5 Department before the alteration, addition, or new  
6 construction is begun.

7 (b) The Department shall inform an applicant in writing  
8 within 10 working days after receiving drawings and  
9 specifications and the required fee, if any, from the  
10 applicant whether the applicant's submission is complete or  
11 incomplete. Failure to provide the applicant with this  
12 notice within 10 working days shall result in the submission  
13 being deemed complete for purposes of initiating the 60-day  
14 review period under this Section. If the submission is  
15 incomplete, the Department shall inform the applicant of the  
16 deficiencies with the submission in writing. If the  
17 submission is complete and the required fee, if any, has been  
18 paid, the Department shall approve or disapprove drawings and  
19 specifications submitted to the Department no later than 60  
20 days following receipt by the Department. The drawings and  
21 specifications shall be of sufficient detail, as provided by  
22 Department rule, to enable the Department to render a  
23 determination of compliance with design and construction  
24 standards under this Act. If the Department finds that the  
25 drawings are not of sufficient detail for it to render a  
26 determination of compliance, the plans shall be determined to  
27 be incomplete and shall not be considered for purposes of  
28 initiating the 60 day review period. If a submission of  
29 drawings and specifications is incomplete, the applicant may  
30 submit additional information. The 60-day review period  
31 shall not commence until the Department determines that a  
32 submission of drawings and specifications is complete or the  
33 submission is deemed complete. If the Department has not  
34 approved or disapproved the drawings and specifications

1 within 60 days, the construction, major alteration, or  
2 addition shall be deemed approved. If the drawings and  
3 specifications are disapproved, the Department shall state in  
4 writing, with specificity, the reasons for the disapproval.  
5 The entity submitting the drawings and specifications may  
6 submit additional information in response to the written  
7 comments from the Department or request a reconsideration of  
8 the disapproval. A final decision of approval or disapproval  
9 shall be made within 45 days of the receipt of the additional  
10 information or reconsideration request. If denied, the  
11 Department shall state the specific reasons for the denial  
12 and the applicant may elect to seek dispute resolution  
13 pursuant to Section 25 of the Illinois Building Commission  
14 Act, which the Department must participate in.

15 (c) The Department shall provide written approval for  
16 occupancy pursuant to subsection (g) and shall not issue a  
17 violation to a facility as a result of a licensure or  
18 complaint survey based upon the facility's physical structure  
19 if:

20 (1) the Department reviewed and approved or deemed  
21 approved the drawing and specifications for compliance  
22 with design and construction standards;

23 (2) the construction, major alteration, or addition  
24 was built as submitted;

25 (3) the law or rules have not been amended since  
26 the original approval; and

27 (4) the conditions at the facility indicate that  
28 there is a reasonable degree of safety provided for the  
29 patients.

30 (c-5) The Department shall not issue a violation to a  
31 facility if the inspected aspects of the facility were  
32 previously found to be in compliance with applicable  
33 standards, the relevant law or rules have not been amended,  
34 conditions at the facility reasonably protect the safety of



1 its patients, and alterations or new hazards have not been  
2 identified.

3 (d) The Department shall charge the following fees in  
4 connection with its reviews conducted before June 30, 2004  
5 under this Section:

6 (1) (Blank).

7 (2) (Blank).

8 (3) If the estimated dollar value of the major  
9 construction is greater than \$500,000, the fee shall be  
10 established by the Department pursuant to rules that  
11 reflect the reasonable and direct cost of the Department  
12 in conducting the architectural reviews required under  
13 this Section. The estimated dollar value of the major  
14 construction subject to review under this Section shall  
15 be annually readjusted to reflect the increase in  
16 construction costs due to inflation.

17 The fees provided in this subsection (d) shall not apply  
18 to major construction projects involving facility changes  
19 that are required by Department rule amendments or to  
20 projects related to homeland security.

21 The fees provided in this subsection (d) shall also not  
22 apply to major construction projects if 51% or more of the  
23 estimated cost of the project is attributed to capital  
24 equipment. For major construction projects where 51% or more  
25 of the estimated cost of the project is attributed to capital  
26 equipment, the Department shall by rule establish a fee that  
27 is reasonably related to the cost of reviewing the project.

28 Disproportionate share hospitals and rural hospitals  
29 shall only pay one-half of the fees required in this  
30 subsection (d). For the purposes of this subsection (d), (i)  
31 "disproportionate share hospital" means a hospital described  
32 in items (1) through (5) of subsection (b) of Section 5-5.02  
33 of the Illinois Public Aid Code and (ii) "rural hospital"  
34 means a hospital that is (A) located outside a metropolitan

1 statistical area or (B) located 15 miles or less from a  
2 county that is outside a metropolitan statistical area and is  
3 licensed to perform medical/surgical or obstetrical services  
4 and has a combined total bed capacity of 75 or fewer beds in  
5 these 2 service categories as of July 14, 1993, as determined  
6 by the Department.

7 The Department shall not commence the facility plan  
8 review process under this Section until the applicable fee  
9 has been paid.

10 (e) All fees received by the Department under this  
11 Section shall be deposited into the Health Facility Plan  
12 Review Fund, a special fund created in the State treasury.  
13 All fees paid by hospitals under subsection (d) shall be used  
14 only to cover the direct and reasonable costs relating to the  
15 Department's review of hospital projects under this Section.  
16 Moneys shall be appropriated from that Fund to the Department  
17 only to pay the costs of conducting reviews under this  
18 Section. None of the moneys in the Health Facility Plan  
19 Review Fund shall be used to reduce the amount of General  
20 Revenue Fund moneys appropriated to the Department for  
21 facility plan reviews conducted pursuant to this Section.

22 (f) (Blank).

23 (g) The Department shall conduct an on-site inspection  
24 of the completed project no later than 15 business 30 days  
25 after notification from the applicant that the project has  
26 been completed and all certifications required by the  
27 Department have been received and accepted by the Department.  
28 The Department may extend this deadline only if a federally  
29 mandated survey time frame takes precedence. The Department  
30 shall provide written approval for occupancy to the applicant  
31 within 5 working days of the Department's final inspection,  
32 provided the applicant has demonstrated substantial  
33 compliance as defined by Department rule. Occupancy of new  
34 major construction is prohibited until Department approval is

1 received, unless the Department has not acted within the time  
2 frames provided in this subsection (g), in which case the  
3 construction shall be deemed approved. Occupancy shall be  
4 authorized after any required health inspection by the  
5 Department has been conducted.

6 (h) The Department shall establish, by rule, a procedure  
7 to conduct interim on-site review of large or complex  
8 construction projects.

9 (i) The Department shall establish, by rule, an  
10 expedited process for emergency repairs or replacement of  
11 like equipment.

12 (j) Nothing in this Section shall be construed to apply  
13 to maintenance, upkeep, or renovation that does not affect  
14 the structural integrity of the building, does not add beds  
15 or services over the number for which the facility is  
16 licensed, and provides a reasonable degree of safety for the  
17 patients.

18 (Source: P.A. 91-712, eff. 7-1-00; 92-563, eff. 6-24-02;  
19 92-803, eff. 8-16-02; revised 9-19-02.)

20 (210 ILCS 85/8.5)

21 Sec. 8.5. Waiver or alternative compliance ~~of--compliance~~  
22 ~~with--rules--or-standards-for-construction-or-physical-plant.~~  
23 Upon application by a hospital, the Department may grant or  
24 renew a the waiver or alternative compliance methodology ~~of~~  
25 ~~the-hospital's-compliance~~ with a ~~construction--or--physical~~  
26 ~~plant~~ rule or standard, including without limitation rules  
27 and standards for (i) design and construction, (ii)  
28 engineering and maintenance of the physical plant, site,  
29 equipment, and systems (heating, cooling, electrical,  
30 ventilation, plumbing, water, sewer, and solid waste  
31 disposal), and (iii) fire and safety, and (iv) other rules or  
32 standards that may present a barrier to the development,  
33 adoption, or implementation of an innovation designed to

1 improve patient care, for a period not to exceed the duration  
2 of the current license or, in the case of an application for  
3 license renewal, the duration of the renewal period. The  
4 waiver may be conditioned upon the hospital taking action  
5 prescribed by the Department as a measure equivalent to  
6 compliance. In determining whether to grant or renew a  
7 waiver, the Department shall consider the duration and basis  
8 for any current waiver with respect to the same rule or  
9 standard and the validity and effect upon patient health and  
10 safety of extending it on the same basis, the effect upon the  
11 health and safety of patients, the quality of patient care,  
12 the hospital's history of compliance with the rules and  
13 standards of this Act, and the hospital's attempts to comply  
14 with the particular rule or standard in question. The  
15 Department may provide, by rule, for the automatic renewal of  
16 waivers concerning construction or physical plant  
17 requirements upon the renewal of a license. The Department  
18 shall renew waivers relating to construction or physical  
19 plant standards issued pursuant to this Section at the time  
20 of the indicated reviews, unless it can show why such waivers  
21 should not be extended for the following reasons:

22 (1) the condition of the physical plant has  
23 deteriorated or its use substantially changed so that the  
24 basis upon which the waiver was issued is materially  
25 different; or

26 (2) the hospital is renovated or substantially  
27 remodeled in such a way as to permit compliance with the  
28 applicable rules and standards without substantial  
29 increase in cost.

30 A copy of each waiver application and each waiver granted  
31 or renewed shall be on file with the Department and available  
32 for public inspection.

33 The Department shall advise hospitals of any applicable  
34 federal waivers about which it is aware and for which the

1 hospital may apply.

2 In the event that the Department does not grant or renew  
3 a waiver of a rule or standard, the Department must notify  
4 the hospital in writing detailing the specific reasons for  
5 not granting or renewing the waiver and must discuss possible  
6 options, if any, the hospital could take to have the waiver  
7 approved.

8 This Section shall apply to both new and existing  
9 construction.

10 (Source: P.A. 92-803, eff. 8-16-02.)

11 (210 ILCS 85/9.3)

12 Sec. 9.3. Informal dispute resolution. The Department  
13 must offer an opportunity for informal dispute resolution  
14 concerning ~~the--application--of--building--codes--for--new--and~~  
15 ~~existing--construction--and--related~~ Department rules and  
16 standards before the advisory committee under subsection (b)  
17 of Section 2310-560 of the Department of Public Health Powers  
18 and Duties Law of the Civil Administrative Code of Illinois.  
19 Participants in this process must include representatives  
20 from the Department, representatives of the hospital, and  
21 additional representatives deemed appropriate by both parties  
22 with expertise regarding the contested deficiencies and the  
23 management of health care facilities. If the Department does  
24 not resolve disputed deficiencies after the informal dispute  
25 resolution process, the Department must provide a written  
26 explanation to the hospital of why the deficiencies have not  
27 been removed from the statement of deficiencies.

28 (Source: P.A. 92-803, eff. 8-16-02.)

29 (210 ILCS 85/9.4 new)

30 Sec. 9.4. Findings, conclusions, and citations. The  
31 Department must consider any factual information offered by  
32 the hospital during the survey, inspection, or investigation,

1 at daily status briefings, and in the exit briefing required  
2 under Section 9.2 before making final findings and  
3 conclusions or issuing citations. The Department must  
4 document receipt of such information. The Department must  
5 provide the hospital with written notice of its findings and  
6 conclusions within 10 days of the exit briefing required  
7 under Section 9.2. This notice must provide the following  
8 information: (i) identification of all deficiencies and areas  
9 of noncompliance with applicable law; (ii) identification of  
10 the applicable statutes, rules, codes, or standards that were  
11 violated; and (iii) the factual basis for each deficiency or  
12 violation.

13 (210 ILCS 85/9.5 new)

14 Sec. 9.5. Reviewer quality improvement. The Department  
15 must implement a reviewer performance improvement program for  
16 hospital survey, inspection, and investigation staff. The  
17 Department must also, on a quarterly basis, assess whether  
18 its surveyors, inspectors, and investigators: (i) apply the  
19 same protocols and criteria consistently to substantially  
20 similar situations; (ii) reach similar findings and  
21 conclusions when reviewing substantially similar situations;  
22 (iii) conduct surveys, inspections, or investigations in a  
23 professional manner; and (iv) comply with the provisions of  
24 this Act. The Department must also implement continuing  
25 education programs for its surveyors, inspectors, and  
26 investigators pursuant to the findings of the performance  
27 improvement program.

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