



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3651

Introduced 2/24/2009, by Rep. Lisa M. Dugan - Lou Lang

SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. Creates the Center for Comprehensive Health Planning to promote the distribution of health care services and improve the healthcare delivery system in Illinois by establishing a statewide Comprehensive Health Plan and ensuring a predictable, transparent, and efficient Certificate of Need process under the Illinois Health Facilities Planning Act. Amends the Illinois Health Facilities Planning Act. Replaces the 5-member Health Facilities Planning Board with a 9-member Health Facilities and Services Review Board. Makes changes in provisions concerning the purposes of the Act; definitions; ex parte communication; construction, modification, or establishment of health care facilities or acquisition of major medical equipment; application for permits or exemption from application; powers and duties of the State Board and its staff; revision of criteria, standards, and rules; penalties; and an audit by the Auditor General. Adds provisions concerning Safety Net Impact Statements and creating the Nomination Panel, which provides a list of candidates to the Governor for appointment to Illinois Health Facilities and Services Review Board, the position of Chairman of the Board, and the Comprehensive Health Planner. Extends the repeal of the Act from July 1, 2009 to December 31, 2019. Repeals provisions concerning areawide health planning organizations, certificates of recognition, and the Task Force on Health Planning Reform. Makes related changes in other Acts. Effective immediately, except that certain provisions are effective July 1, 2009.

LRB096 11637 RPM 22183 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public health.

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

4 Section 5. The Open Meetings Act is amended by changing
5 Section 1.02 as follows:

6 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

7 Sec. 1.02. For the purposes of this Act:

8 "Meeting" means any gathering, whether in person or by
9 video or audio conference, telephone call, electronic means
10 (such as, without limitation, electronic mail, electronic
11 chat, and instant messaging), or other means of contemporaneous
12 interactive communication, of a majority of a quorum of the
13 members of a public body held for the purpose of discussing
14 public business or, for a 5-member public body, a quorum of the
15 members of a public body held for the purpose of discussing
16 public business.

17 Accordingly, for a 5-member public body, 3 members of the
18 body constitute a quorum and the affirmative vote of 3 members
19 is necessary to adopt any motion, resolution, or ordinance,
20 unless a greater number is otherwise required.

21 "Public body" includes all legislative, executive,
22 administrative or advisory bodies of the State, counties,
23 townships, cities, villages, incorporated towns, school

1 districts and all other municipal corporations, boards,
2 bureaus, committees or commissions of this State, and any
3 subsidiary bodies of any of the foregoing including but not
4 limited to committees and subcommittees which are supported in
5 whole or in part by tax revenue, or which expend tax revenue,
6 except the General Assembly and committees or commissions
7 thereof. "Public body" includes tourism boards and convention
8 or civic center boards located in counties that are contiguous
9 to the Mississippi River with populations of more than 250,000
10 but less than 300,000. "Public body" includes the Health
11 Facilities and Services Review Board ~~Health Facilities~~
12 ~~Planning Board~~. "Public body" does not include a child death
13 review team or the Illinois Child Death Review Teams Executive
14 Council established under the Child Death Review Team Act or an
15 ethics commission acting under the State Officials and
16 Employees Ethics Act.

17 (Source: P.A. 94-1058, eff. 1-1-07; 95-245, eff. 8-17-07.)

18 Section 10. The State Officials and Employees Ethics Act is
19 amended by changing Section 5-50 as follows:

20 (5 ILCS 430/5-50)

21 Sec. 5-50. Ex parte communications; special government
22 agents.

23 (a) This Section applies to ex parte communications made to
24 any agency listed in subsection (e).

1 (b) "Ex parte communication" means any written or oral
2 communication by any person that imparts or requests material
3 information or makes a material argument regarding potential
4 action concerning regulatory, quasi-adjudicatory, investment,
5 or licensing matters pending before or under consideration by
6 the agency. "Ex parte communication" does not include the
7 following: (i) statements by a person publicly made in a public
8 forum; (ii) statements regarding matters of procedure and
9 practice, such as format, the number of copies required, the
10 manner of filing, and the status of a matter; and (iii)
11 statements made by a State employee of the agency to the agency
12 head or other employees of that agency.

13 (b-5) An ex parte communication received by an agency,
14 agency head, or other agency employee from an interested party
15 or his or her official representative or attorney shall
16 promptly be memorialized and made a part of the record.

17 (c) An ex parte communication received by any agency,
18 agency head, or other agency employee, other than an ex parte
19 communication described in subsection (b-5), shall immediately
20 be reported to that agency's ethics officer by the recipient of
21 the communication and by any other employee of that agency who
22 responds to the communication. The ethics officer shall require
23 that the ex parte communication be promptly made a part of the
24 record. The ethics officer shall promptly file the ex parte
25 communication with the Executive Ethics Commission, including
26 all written communications, all written responses to the

1 communications, and a memorandum prepared by the ethics officer
2 stating the nature and substance of all oral communications,
3 the identity and job title of the person to whom each
4 communication was made, all responses made, the identity and
5 job title of the person making each response, the identity of
6 each person from whom the written or oral ex parte
7 communication was received, the individual or entity
8 represented by that person, any action the person requested or
9 recommended, and any other pertinent information. The
10 disclosure shall also contain the date of any ex parte
11 communication.

12 (d) "Interested party" means a person or entity whose
13 rights, privileges, or interests are the subject of or are
14 directly affected by a regulatory, quasi-adjudicatory,
15 investment, or licensing matter.

16 (e) This Section applies to the following agencies:

17 Executive Ethics Commission

18 Illinois Commerce Commission

19 Educational Labor Relations Board

20 State Board of Elections

21 Illinois Gaming Board

22 Health Facilities and Services Review Board

23 ~~Health Facilities Planning Board~~

24 Illinois Workers' Compensation Commission

25 Illinois Labor Relations Board

26 Illinois Liquor Control Commission

1 Pollution Control Board
2 Property Tax Appeal Board
3 Illinois Racing Board
4 Illinois Purchased Care Review Board
5 Department of State Police Merit Board
6 Motor Vehicle Review Board
7 Prisoner Review Board
8 Civil Service Commission
9 Personnel Review Board for the Treasurer
10 Merit Commission for the Secretary of State
11 Merit Commission for the Office of the Comptroller
12 Court of Claims
13 Board of Review of the Department of Employment Security
14 Department of Insurance
15 Department of Professional Regulation and licensing boards
16 under the Department
17 Department of Public Health and licensing boards under the
18 Department
19 Office of Banks and Real Estate and licensing boards under
20 the Office
21 State Employees Retirement System Board of Trustees
22 Judges Retirement System Board of Trustees
23 General Assembly Retirement System Board of Trustees
24 Illinois Board of Investment
25 State Universities Retirement System Board of Trustees
26 Teachers Retirement System Officers Board of Trustees

1 (f) Any person who fails to (i) report an ex parte
2 communication to an ethics officer, (ii) make information part
3 of the record, or (iii) make a filing with the Executive Ethics
4 Commission as required by this Section or as required by
5 Section 5-165 of the Illinois Administrative Procedure Act
6 violates this Act.

7 (Source: P.A. 95-331, eff. 8-21-07.)

8 Section 12. The Civil Administrative Code of Illinois is
9 amended by changing Section 5-565 as follows:

10 (20 ILCS 5/5-565) (was 20 ILCS 5/6.06)

11 Sec. 5-565. In the Department of Public Health.

12 (a) The General Assembly declares it to be the public
13 policy of this State that all citizens of Illinois are entitled
14 to lead healthy lives. Governmental public health has a
15 specific responsibility to ensure that a system is in place to
16 allow the public health mission to be achieved. To develop a
17 system requires certain core functions to be performed by
18 government. The State Board of Health is to assume the
19 leadership role in advising the Director in meeting the
20 following functions:

21 (1) Needs assessment.

22 (2) Statewide health objectives.

23 (3) Policy development.

24 (4) Assurance of access to necessary services.

1 There shall be a State Board of Health composed of 17
2 persons, all of whom shall be appointed by the Governor, with
3 the advice and consent of the Senate for those appointed by the
4 Governor on and after June 30, 1998, and one of whom shall be a
5 senior citizen age 60 or over. Five members shall be physicians
6 licensed to practice medicine in all its branches, one
7 representing a medical school faculty, one who is board
8 certified in preventive medicine, and one who is engaged in
9 private practice. One member shall be a dentist; one an
10 environmental health practitioner; one a local public health
11 administrator; one a local board of health member; one a
12 registered nurse; one a veterinarian; one a public health
13 academician; one a health care industry representative; one a
14 representative of the business community; one a representative
15 of the non-profit public interest community; and 2 shall be
16 citizens at large.

17 The terms of Board of Health members shall be 3 years,
18 except that members shall continue to serve on the Board of
19 Health until a replacement is appointed. Upon the effective
20 date of this amendatory Act of the 93rd General Assembly, in
21 the appointment of the Board of Health members appointed to
22 vacancies or positions with terms expiring on or before
23 December 31, 2004, the Governor shall appoint up to 6 members
24 to serve for terms of 3 years; up to 6 members to serve for
25 terms of 2 years; and up to 5 members to serve for a term of one
26 year, so that the term of no more than 6 members expire in the

1 same year. All members shall be legal residents of the State of
2 Illinois. The duties of the Board shall include, but not be
3 limited to, the following:

4 (1) To advise the Department of ways to encourage
5 public understanding and support of the Department's
6 programs.

7 (2) To evaluate all boards, councils, committees,
8 authorities, and bodies advisory to, or an adjunct of, the
9 Department of Public Health or its Director for the purpose
10 of recommending to the Director one or more of the
11 following:

12 (i) The elimination of bodies whose activities are
13 not consistent with goals and objectives of the
14 Department.

15 (ii) The consolidation of bodies whose activities
16 encompass compatible programmatic subjects.

17 (iii) The restructuring of the relationship
18 between the various bodies and their integration
19 within the organizational structure of the Department.

20 (iv) The establishment of new bodies deemed
21 essential to the functioning of the Department.

22 (3) To serve as an advisory group to the Director for
23 public health emergencies and control of health hazards.

24 (4) To advise the Director regarding public health
25 policy, and to make health policy recommendations
26 regarding priorities to the Governor through the Director.

1 (5) To present public health issues to the Director and
2 to make recommendations for the resolution of those issues.

3 (6) To recommend studies to delineate public health
4 problems.

5 (7) To make recommendations to the Governor through the
6 Director regarding the coordination of State public health
7 activities with other State and local public health
8 agencies and organizations.

9 (8) To report on or before February 1 of each year on
10 the health of the residents of Illinois to the Governor,
11 the General Assembly, and the public.

12 (9) To review the final draft of all proposed
13 administrative rules, other than emergency or preemptory
14 rules and those rules that another advisory body must
15 approve or review within a statutorily defined time period,
16 of the Department after September 19, 1991 (the effective
17 date of Public Act 87-633). The Board shall review the
18 proposed rules within 90 days of submission by the
19 Department. The Department shall take into consideration
20 any comments and recommendations of the Board regarding the
21 proposed rules prior to submission to the Secretary of
22 State for initial publication. If the Department disagrees
23 with the recommendations of the Board, it shall submit a
24 written response outlining the reasons for not accepting
25 the recommendations.

26 In the case of proposed administrative rules or

1 amendments to administrative rules regarding immunization
2 of children against preventable communicable diseases
3 designated by the Director under the Communicable Disease
4 Prevention Act, after the Immunization Advisory Committee
5 has made its recommendations, the Board shall conduct 3
6 public hearings, geographically distributed throughout the
7 State. At the conclusion of the hearings, the State Board
8 of Health shall issue a report, including its
9 recommendations, to the Director. The Director shall take
10 into consideration any comments or recommendations made by
11 the Board based on these hearings.

12 (10) To deliver to the Governor for presentation to the
13 General Assembly a State Health Improvement Plan. The first
14 and second such plans shall be delivered to the Governor on
15 January 1, 2006 and on January 1, 2009 respectively, and
16 then every 4 years thereafter.

17 The Plan shall recommend priorities and strategies to
18 improve the public health system and the health status of
19 Illinois residents, taking into consideration national
20 health objectives and system standards as frameworks for
21 assessment.

22 The Plan shall also take into consideration priorities
23 and strategies developed at the community level through the
24 Illinois Project for Local Assessment of Needs (IPLAN) and
25 any regional health improvement plans that may be
26 developed. The Plan shall focus on prevention as a key

1 strategy for long-term health improvement in Illinois.

2 The Plan shall examine and make recommendations on the
3 contributions and strategies of the public and private
4 sectors for improving health status and the public health
5 system in the State. In addition to recommendations on
6 health status improvement priorities and strategies for
7 the population of the State as a whole, the Plan shall make
8 recommendations regarding priorities and strategies for
9 reducing and eliminating health disparities in Illinois;
10 including racial, ethnic, gender, age, socio-economic and
11 geographic disparities.

12 The Director of the Illinois Department of Public
13 Health shall appoint a Planning Team that includes a range
14 of public, private, and voluntary sector stakeholders and
15 participants in the public health system. This Team shall
16 include: the directors of State agencies with public health
17 responsibilities (or their designees), including but not
18 limited to the Illinois Departments of Public Health and
19 Department of Human Services, representatives of local
20 health departments, representatives of local community
21 health partnerships, and individuals with expertise who
22 represent an array of organizations and constituencies
23 engaged in public health improvement and prevention.

24 The State Board of Health shall hold at least 3 public
25 hearings addressing drafts of the Plan in representative
26 geographic areas of the State. Members of the Planning Team

1 shall receive no compensation for their services, but may
2 be reimbursed for their necessary expenses.

3 (11) Upon the request of the Governor, to recommend to
4 the Governor candidates for Director of Public Health when
5 vacancies occur in the position.

6 (12) To adopt bylaws for the conduct of its own
7 business, including the authority to establish ad hoc
8 committees to address specific public health programs
9 requiring resolution.

10 (13) To review and comment upon the Comprehensive
11 Health Plan submitted by the Center for Comprehensive
12 Health Planning as provided under Section 2310-217 of the
13 Department of Public Health Powers and Duties Law of the
14 Civil Administrative Code of Illinois.

15 Upon appointment, the Board shall elect a chairperson from
16 among its members.

17 Members of the Board shall receive compensation for their
18 services at the rate of \$150 per day, not to exceed \$10,000 per
19 year, as designated by the Director for each day required for
20 transacting the business of the Board and shall be reimbursed
21 for necessary expenses incurred in the performance of their
22 duties. The Board shall meet from time to time at the call of
23 the Department, at the call of the chairperson, or upon the
24 request of 3 of its members, but shall not meet less than 4
25 times per year.

26 (b) (Blank).

1 (c) An Advisory Board on Necropsy Service to Coroners,
2 which shall counsel and advise with the Director on the
3 administration of the Autopsy Act. The Advisory Board shall
4 consist of 11 members, including a senior citizen age 60 or
5 over, appointed by the Governor, one of whom shall be
6 designated as chairman by a majority of the members of the
7 Board. In the appointment of the first Board the Governor shall
8 appoint 3 members to serve for terms of 1 year, 3 for terms of 2
9 years, and 3 for terms of 3 years. The members first appointed
10 under Public Act 83-1538 shall serve for a term of 3 years. All
11 members appointed thereafter shall be appointed for terms of 3
12 years, except that when an appointment is made to fill a
13 vacancy, the appointment shall be for the remaining term of the
14 position vacant. The members of the Board shall be citizens of
15 the State of Illinois. In the appointment of members of the
16 Advisory Board the Governor shall appoint 3 members who shall
17 be persons licensed to practice medicine and surgery in the
18 State of Illinois, at least 2 of whom shall have received
19 post-graduate training in the field of pathology; 3 members who
20 are duly elected coroners in this State; and 5 members who
21 shall have interest and abilities in the field of forensic
22 medicine but who shall be neither persons licensed to practice
23 any branch of medicine in this State nor coroners. In the
24 appointment of medical and coroner members of the Board, the
25 Governor shall invite nominations from recognized medical and
26 coroners organizations in this State respectively. Board

1 members, while serving on business of the Board, shall receive
2 actual necessary travel and subsistence expenses while so
3 serving away from their places of residence.

4 (Source: P.A. 93-975, eff. 1-1-05.)

5 Section 15. The Department of Public Health Powers and
6 Duties Law of the Civil Administrative Code of Illinois is
7 amended by adding Section 2310-217 as follows:

8 (20 ILCS 2310/2310-217 new)

9 Sec. 2310-217. Center for Comprehensive Health Planning.

10 (a) The Center for Comprehensive Health Planning
11 ("Center") is hereby created to promote the distribution of
12 health care services and improve the healthcare delivery system
13 in Illinois by establishing a statewide Comprehensive Health
14 Plan and ensuring a predictable, transparent, and efficient
15 Certificate of Need process under the Illinois Health
16 Facilities Planning Act. The objectives of the Comprehensive
17 Health Plan include: to assess existing community resources and
18 determine health care needs; to support safety net services for
19 uninsured and underinsured residents; to promote adequate
20 financing for health care services; and to recognize and
21 respond to changes in community health care needs, including
22 public health emergencies and natural disasters. The Center
23 shall comprehensively assess health and mental health
24 services; assess health needs with a special focus on the

1 identification of health disparities; identify State-level and
2 regional needs; and make findings that identify the impact of
3 market forces on the access to high quality services for
4 uninsured and underinsured residents. The Center shall conduct
5 a biennial comprehensive assessment of health resources and
6 service needs, including, but not limited to, facilities,
7 clinical services, and workforce; conduct needs assessments
8 using key indicators of population health status and
9 determinations of potential benefits that could occur with
10 certain changes in the health care delivery system; collect and
11 analyze relevant, objective, and accurate data, including
12 health care utilization data; identify issues related to health
13 care financing such as revenue streams, federal opportunities,
14 better utilization of existing resources, development of
15 resources, and incentives for new resource development;
16 evaluate findings by the needs assessments; and annually report
17 to the General Assembly and the public.

18 The Illinois Department of Public Health shall establish a
19 Center for Comprehensive Health Planning to develop a
20 long-range Comprehensive Health Plan, which Plan shall guide
21 the development of clinical services, facilities, and
22 workforce that meet the health and mental health care needs of
23 this State.

24 (b) Center for Comprehensive Health Planning.

25 (1) Responsibilities and duties of the Center include:

26 (A) providing technical assistance to the Health

1 Facilities Planning Board to permit the Planning Board
2 to apply relevant components of the Comprehensive
3 Health Plan in Planning Board deliberations;

4 (B) attempting to identify unmet health needs and
5 assist in any inter-agency State planning for health
6 resource development;

7 (C) considering health plans and other related
8 publications that have been developed in Illinois and
9 nationally;

10 (D) establishing priorities and recommend methods
11 for meeting identified health service, facilities, and
12 workforce needs. Plan recommendations shall be short
13 term, mid-term, and long-range;

14 (E) conducting an analysis regarding the
15 availability of long-term care resources throughout
16 the State, using data and plans developed under the
17 Illinois Older Adult Services Act, to adjust existing
18 bed need criteria and standards under the Health
19 Facilities Planning Act for changes in utilization of
20 institutional and non-institutional care options, with
21 special consideration of the availability of the
22 least-restrictive options in accordance with the needs
23 and preferences of persons requiring long-term care;
24 and

25 (F) considering and recognizing health resource
26 development projects or information on methods by

1 which a community may receive benefit, that are
2 consistent with health resource needs identified
3 through the comprehensive health planning process.

4 (2) A Comprehensive Health Planner shall be appointed
5 by the Governor from a list of nominees selected by the
6 Special Nomination Panel established in Section 19.7 of the
7 Illinois Health Facilities Planning Act, with the advice
8 and consent of the Senate, to supervise the Center and its
9 staff for a paid 3-year term, subject to review and
10 re-approval every 3 years. The Planner shall receive an
11 annual salary of \$120,000, or an amount set by the
12 Compensation Review Board, whichever is greater. The
13 Planner shall prepare a budget for review and approval by
14 the Illinois General Assembly, which shall become part of
15 the annual report available on the Department website.

16 (c) Comprehensive Health Plan.

17 (1) The Plan shall be developed with a 5 to 10 year
18 range, and updated every 2 years, or annually, if needed.

19 (2) Components of the Plan shall include:

20 (A) an inventory to map the State for growth,
21 population shifts, and utilization of available
22 healthcare resources, using both State-level and
23 regionally defined areas;

24 (B) an evaluation of health service needs,
25 addressing gaps in service, over-supply, and
26 continuity of care, including an assessment of

1 existing safety net services;

2 (C) an inventory of health care facility
3 infrastructure, including regulated facilities and
4 services, and unregulated facilities and services, as
5 determined by the Agency;

6 (D) recommendations on ensuring access to care,
7 especially for safety net services, including rural
8 and medically underserved communities; and

9 (E) an integration between health planning for
10 clinical services, facilities and workforce under the
11 Illinois Health Facilities Planning Act and other
12 health planning laws and activities of the State.

13 (3) Components of the Plan may include recommendations
14 that will be integrated into any relevant certificate of
15 need review criteria, standards, and procedures.

16 (d) Within 60 days of receiving the Comprehensive Health
17 Plan, the State Board of Health shall review and comment upon
18 the Plan and any policy change recommendations. The first Plan
19 shall be submitted to the State Board of Health within one year
20 after hiring the Comprehensive Health Planner. The Plan shall
21 be submitted to the General Assembly by the following March 1.
22 The Center and State Board shall hold public hearings on the
23 Plan and its updates. The Center shall permit the public to
24 request the Plan to be updated more frequently to address
25 emerging population and demographic trends.

26 (e) Current comprehensive health planning data and

1 information about Center funding shall be available to the
2 public on the Department website.

3 (f) The Department shall submit to a performance audit of
4 the Center by the Auditor General in order to assess whether
5 progress is being made to develop a Comprehensive Health Plan
6 and whether resources are sufficient to meet the goals of the
7 Center for Comprehensive Health Planning.

8 Section 20. The Illinois Health Facilities Planning Act is
9 amended by changing Sections 2, 3, 4, 4.2, 5, 6, 8.5, 12, 12.2,
10 12.3, 15.1, 19.5, and 19.6 and by adding Sections 5.4 and 19.7
11 as follows:

12 (20 ILCS 3960/2) (from Ch. 111 1/2, par. 1152)

13 (Section scheduled to be repealed on July 1, 2009)

14 Sec. 2. Purpose of the Act. ~~The purpose of this Act is to~~
15 ~~establish a procedure designed to reverse the trends of~~
16 ~~increasing costs of health care resulting from unnecessary~~
17 ~~construction or modification of health care facilities. Such~~
18 ~~procedure shall represent an attempt by the State of Illinois~~
19 ~~to improve the financial ability of the public to obtain~~
20 ~~necessary health services, and to establish an orderly and~~
21 ~~comprehensive health care delivery system which will guarantee~~
22 ~~the availability of quality health care to the general public.~~
23 This Act shall establish a procedure (1) which requires a
24 person establishing, constructing or modifying a health care

1 facility, as herein defined, to have the qualifications,
2 background, character and financial resources to adequately
3 provide a proper service for the community; (2) that promotes,
4 through the process of comprehensive health planning
5 ~~recognized local and areawide health facilities planning~~, the
6 orderly and economic development of health care facilities in
7 the State of Illinois that avoids unnecessary duplication of
8 such facilities; (3) that promotes planning for and development
9 of health care facilities needed for comprehensive health care
10 especially in areas where the health planning process has
11 identified unmet needs; and (4) that carries out these purposes
12 in coordination with the Center for Comprehensive Health
13 Planning Agency and the Comprehensive Health Plan
14 ~~comprehensive State health plan~~ developed by that Center
15 ~~Agency~~.

16 The changes made to this Act by this amendatory Act of the
17 96th General Assembly are intended to accomplish the following
18 objectives: to improve the financial ability of the public to
19 obtain necessary health services; to establish an orderly and
20 comprehensive health care delivery system that will guarantee
21 the availability of quality health care to the general public;
22 to maintain and improve the provision of essential health care
23 services and increase the accessibility of those services to
24 the medically underserved and indigent; to assure that the
25 reduction and closure of health care services or facilities is
26 performed in an orderly and timely manner, and that these

1 actions are deemed to be in the best interests of the public;
2 and to assess the financial burden to patients caused by
3 unnecessary health care construction and modification. The
4 Health Facilities and Services Review Board must apply the
5 findings from the Comprehensive Health Plan to update review
6 standards and criteria, as well as better identify needs and
7 evaluate applications, and establish mechanisms to support
8 adequate financing of the health care delivery system in
9 Illinois, for the development and preservation of safety net
10 services. The Board must provide written and consistent
11 decisions that are based on the findings from the Comprehensive
12 Health Plan, as well as other issue or subject specific plans,
13 recommended by the Center for Comprehensive Health Planning.
14 Policies and procedures must include criteria and standards for
15 plan variations and deviations that must be updated.
16 Evidence-based assessments, projections and decisions will be
17 applied regarding capacity, quality, value and equity in the
18 delivery of health care services in Illinois. The integrity of
19 the Certificate of Need process is ensured through
20 implementation of a special panel for nominations of the
21 Certificate of Need Board, as well as revised ethics and
22 communications procedures. Cost containment and support for
23 safety net services must continue to be central tenets of the
24 Certificate of Need process.

25 (Source: P.A. 80-941.)

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

2 (Section scheduled to be repealed on July 1, 2009)

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

4 "Health care facilities" means and includes the following
5 facilities and organizations:

6 1. An ambulatory surgical treatment center required to
7 be licensed pursuant to the Ambulatory Surgical Treatment
8 Center Act;

9 2. An institution, place, building, or agency required
10 to be licensed pursuant to the Hospital Licensing Act;

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

13 4. Hospitals, nursing homes, ambulatory surgical
14 treatment centers, or kidney disease treatment centers
15 maintained by the State or any department or agency
16 thereof;

17 5. Kidney disease treatment centers, including a
18 free-standing hemodialysis unit required to be licensed
19 under the End Stage Renal Disease Facility Act; ~~and~~

20 6. An institution, place, building, or room used for
21 the performance of outpatient surgical procedures that is
22 leased, owned, or operated by or on behalf of an
23 out-of-state facility; ~~and~~

24 7. An institution, place, building, or room used for
25 provision of a health care category of service as defined
26 by the Board, including, but not limited to, cardiac

1 catheterization and open heart surgery; and

2 8. An institution, place, building, or room used for
3 provision of major medical equipment used in the direct
4 clinical diagnosis or treatment of patients, and whose
5 project cost is in excess of the capital expenditure
6 minimum.

7 This Act shall not apply to the construction of any new
8 facility or the renovation of any existing facility located on
9 any campus facility as defined in Section 5-5.8b of the
10 Illinois Public Aid Code, provided that the campus facility
11 encompasses 30 or more contiguous acres and that the new or
12 renovated facility is intended for use by a licensed
13 residential facility.

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

17 No facility licensed under the Supportive Residences
18 Licensing Act or the Assisted Living and Shared Housing Act
19 shall be subject to the provisions of this Act.

20 No facility established and operating under the
21 Alternative Health Care Delivery Act as a community-based
22 residential rehabilitation center alternative health care
23 model demonstration program or as an Alzheimer's Disease
24 Management Center alternative health care model demonstration
25 program shall be subject to the provisions of this Act.

26 A facility designated as a supportive living facility that

1 is in good standing with the program established under Section
2 5-5.01a of the Illinois Public Aid Code shall not be subject to
3 the provisions of this Act.

4 This Act does not apply to facilities granted waivers under
5 Section 3-102.2 of the Nursing Home Care Act. However, if a
6 demonstration project under that Act applies for a certificate
7 of need to convert to a nursing facility, it shall meet the
8 licensure and certificate of need requirements in effect as of
9 the date of application.

10 This Act does not apply to a dialysis facility that
11 provides only dialysis training, support, and related services
12 to individuals with end stage renal disease who have elected to
13 receive home dialysis. This Act does not apply to a dialysis
14 unit located in a licensed nursing home that offers or provides
15 dialysis-related services to residents with end stage renal
16 disease who have elected to receive home dialysis within the
17 nursing home. The Board, however, may require these dialysis
18 facilities and licensed nursing homes to report statistical
19 information on a quarterly basis to the Board to be used by the
20 Board to conduct analyses on the need for proposed kidney
21 disease treatment centers.

22 This Act shall not apply to the closure of an entity or a
23 portion of an entity licensed under the Nursing Home Care Act,
24 with the exceptions of facilities operated by a county or
25 Illinois Veterans Homes, that elects to convert, in whole or in
26 part, to an assisted living or shared housing establishment

1 licensed under the Assisted Living and Shared Housing Act.

2 This Act does not apply to any change of ownership of a
3 healthcare facility that is licensed under the Nursing Home
4 Care Act, with the exceptions of facilities operated by a
5 county or Illinois Veterans Homes. Changes of ownership of
6 facilities licensed under the Nursing Home Care Act must meet
7 the requirements set forth in Sections 3-101 through 3-119 of
8 the Nursing Home Care Act.

9 With the exception of those health care facilities
10 specifically included in this Section, nothing in this Act
11 shall be intended to include facilities operated as a part of
12 the practice of a physician or other licensed health care
13 professional, whether practicing in his individual capacity or
14 within the legal structure of any partnership, medical or
15 professional corporation, or unincorporated medical or
16 professional group. Further, this Act shall not apply to
17 physicians or other licensed health care professional's
18 practices where such practices are carried out in a portion of
19 a health care facility under contract with such health care
20 facility by a physician or by other licensed health care
21 professionals, whether practicing in his individual capacity
22 or within the legal structure of any partnership, medical or
23 professional corporation, or unincorporated medical or
24 professional groups. This Act shall apply to construction or
25 modification and to establishment by such health care facility
26 of such contracted portion which is subject to facility

1 licensing requirements, irrespective of the party responsible
2 for such action or attendant financial obligation.

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

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

16 "State Board" or "Board" means the Health Facilities and
17 Services Review ~~Planning~~ Board.

18 "Construction or modification" means the establishment,
19 erection, building, alteration, reconstruction, modernization,
20 improvement, extension, discontinuation, change of ownership,
21 of or by a health care facility, or the purchase or acquisition
22 by or through a health care facility of equipment or service
23 for diagnostic or therapeutic purposes or for facility
24 administration or operation, or any capital expenditure made by
25 or on behalf of a health care facility which exceeds the
26 capital expenditure minimum; however, any capital expenditure

1 made by or on behalf of a health care facility for (i) the
2 construction or modification of a facility licensed under the
3 Assisted Living and Shared Housing Act or (ii) a conversion
4 project undertaken in accordance with Section 30 of the Older
5 Adult Services Act shall be excluded from any obligations under
6 this Act.

7 "Establish" means the construction of a health care
8 facility or the replacement of an existing facility on another
9 site or the initiation of a category of service as defined by
10 the Board.

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

25 "Capital Expenditure" means an expenditure: (A) made by or
26 on behalf of a health care facility (as such a facility is

1 defined in this Act); and (B) which under generally accepted
2 accounting principles is not properly chargeable as an expense
3 of operation and maintenance, or is made to obtain by lease or
4 comparable arrangement any facility or part thereof or any
5 equipment for a facility or part; and which exceeds the capital
6 expenditure minimum.

7 For the purpose of this paragraph, the cost of any studies,
8 surveys, designs, plans, working drawings, specifications, and
9 other activities essential to the acquisition, improvement,
10 expansion, or replacement of any plant or equipment with
11 respect to which an expenditure is made shall be included in
12 determining if such expenditure exceeds the capital
13 expenditures minimum. Unless otherwise interdependent, or
14 submitted as one project by the applicant, components of
15 construction or modification undertaken by means of a single
16 construction contract or financed through the issuance of a
17 single debt instrument shall not be grouped together as one
18 project. Donations of equipment or facilities to a health care
19 facility which if acquired directly by such facility would be
20 subject to review under this Act shall be considered capital
21 expenditures, and a transfer of equipment or facilities for
22 less than fair market value shall be considered a capital
23 expenditure for purposes of this Act if a transfer of the
24 equipment or facilities at fair market value would be subject
25 to review.

26 "Capital expenditure minimum" means \$11,500,000 for

1 projects by hospital applicants and \$3,000,000 for projects by
2 all other applicants \$6,000,000, which shall be annually
3 adjusted to reflect the increase in construction costs due to
4 inflation, for major medical equipment and for all other
5 capital expenditures; ~~provided, however, that when a capital~~
6 ~~expenditure is for the construction or modification of a health~~
7 ~~and fitness center, "capital expenditure minimum" means the~~
8 ~~capital expenditure minimum for all other capital expenditures~~
9 ~~in effect on March 1, 2000, which shall be annually adjusted to~~
10 ~~reflect the increase in construction costs due to inflation.~~

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

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

4 "Areawide" means a major area of the State delineated on a
5 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 the
9 word "area" may be used synonymously with the term "areawide".

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

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

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

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

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

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

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

4 ~~"Comprehensive health planning" means health planning~~
5 ~~concerned with the total population and all health and~~
6 ~~associated problems that affect the well being of people and~~
7 ~~that encompasses health services, health manpower, and health~~
8 ~~facilities; and the coordination among these and with those~~
9 ~~social, economic, and environmental factors that affect~~
10 ~~health.~~

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

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

1 physician licensed to practice medicine in all its branches in
2 Illinois that is not required to be licensed under the
3 Ambulatory Surgical Treatment Center Act.

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

10 "Related person" means any person that: (i) is at least 50%
11 owned, directly or indirectly, by either the health care
12 facility or a person owning, directly or indirectly, at least
13 50% of the health care facility; or (ii) owns, directly or
14 indirectly, at least 50% of the health care facility.

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

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

21 "Special Nomination Panel" means the Special Nomination
22 Panel created in Section 19.7 of this Act.

23 (Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07;
24 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; 95-727, eff.
25 6-30-08; 95-876, eff. 8-21-08.)

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

2 (Section scheduled to be repealed on July 1, 2009)

3 Sec. 4. Health Facilities and Services Review Planning
4 Board; membership; appointment; term; compensation; quorum.
5 Notwithstanding any other provision in this Section, members of
6 the State Board holding office on the day before the effective
7 date of this Amendatory Act of the 96th General Assembly shall
8 retain their authority.

9 (a) There is created the Health Facilities and Services
10 Review Planning Board, which shall perform the functions
11 described in this Act. The Department shall provide operational
12 support to the Board, including the provision of office space,
13 supplies, and clerical, financial, and accounting services.
14 The Board may contract with experts related to specific health
15 services or facilities and create technical advisory panels to
16 assist in the development of criteria, standards, and
17 procedures used in the evaluation of applications for permit
18 and exemption.

19 (b) Beginning March 1, 2010, the ~~The~~ State Board shall
20 consist of 9 ~~5~~ voting members. The members shall include a
21 paid, full-time chairman, and 8 paid part-time members. Each
22 Board member shall receive an annual salary of \$65,000, or such
23 amount as set by the Compensation Review Board, whichever is
24 greater. The chairman of the Board shall receive, in addition
25 to his or her salary, an additional sum of \$25,000 per year, or
26 an amount set by the Compensation Review Board, whichever is

1 greater, during such time as he or she shall serve as chairman.
2 All members shall be residents of Illinois and at least 4 shall
3 reside outside the Chicago Metropolitan Statistical Area.
4 Consideration shall be given to potential appointees who
5 reflect the ethnic and cultural diversity of the State. Neither
6 Board members nor Board staff shall be convicted felons or have
7 pled guilty to a felony.

8 Each member shall have a reasonable knowledge of the
9 practice, procedures and principles of the health care delivery
10 system in Illinois, including at least 5 members who shall be
11 knowledgeable about health care delivery systems, health
12 systems planning, finance, or the management of health care
13 facilities currently regulated under the Act. One member shall
14 be a representative of a non-profit health care consumer
15 advocacy organization ~~health planning, health finance, or~~
16 ~~health care at the time of his or her appointment.~~ Spouses or
17 other members of the immediate family of the Board cannot be an
18 employee, agent, or under contract with services or facilities
19 subject to the Act. Prior to appointment and in the course of
20 service on the Board, members of the Board shall disclose the
21 employment or other financial interest of any other relative of
22 the member, if known, in service or facilities subject to the
23 Act. Members of the Board shall declare any
24 conflict-of-interest that may exist with respect to the status
25 of those relatives and recuse themselves from voting on any
26 issue for which a conflict-of-interest is declared. No person

1 shall be appointed or continue to serve as a member of the
2 State Board who is, or whose spouse, parent, or child is, a
3 member of the Board of Directors of, has a financial interest
4 in, or has a business relationship with a health care facility.

5 Notwithstanding any provision of this Section to the
6 contrary, the term of office of each member of the State Board
7 serving on the day before the effective date of this amendatory
8 Act of the 96th General Assembly is abolished on the date upon
9 which members of the 9-member Board, as established by this
10 amendatory Act of the 96th General Assembly, have been
11 appointed and can begin to take action as a Board. Members of
12 the State Board serving on the day before the effective date of
13 this amendatory Act of the 96th General Assembly may be
14 reappointed to the 9-member Board. ~~effective date of this~~
15 ~~amendatory Act of the 93rd General Assembly and those members~~
16 ~~no longer hold office.~~

17 (c) The State Board shall be appointed by the Governor from
18 a list of nominees selected by the Special Nomination Panel,
19 with the advice and consent of the Senate. Not more than 5 ~~3~~ of
20 the appointments shall be of the same political party at the
21 time of the appointment. No person shall be appointed as a
22 State Board member if that person has served, after the
23 effective date of Public Act 93-41, 2 3-year terms as a State
24 Board member, except for ex officio non-voting members.

25 The Secretary of Human Services, the Director of Healthcare
26 and Family Services, and the Director of Public Health, or

1 their designated representatives, shall serve as ex-officio,
2 non-voting members of the State Board.

3 (d) Of those 9 members initially appointed by the Governor
4 following the effective date of ~~under~~ this amendatory Act of
5 the 96th ~~93rd~~ General Assembly, 3 ~~2~~ shall serve for terms
6 expiring July 1, 2011 ~~2005~~, 3 ~~2~~ shall serve for terms expiring
7 July 1, 2012 ~~2006~~, and 3 ~~1~~ shall serve for terms ~~a term~~
8 expiring July 1, 2013 ~~2007~~. Thereafter, each appointed member
9 shall hold office for a term of 3 years, provided that any
10 member appointed to fill a vacancy occurring prior to the
11 expiration of the term for which his or her predecessor was
12 appointed shall be appointed for the remainder of such term and
13 the term of office of each successor shall commence on July 1
14 of the year in which his predecessor's term expires. Each
15 member appointed after the effective date of this amendatory
16 Act of the 96th ~~93rd~~ General Assembly shall hold office until
17 his or her successor is appointed and qualified. No member
18 shall serve more than 3 terms.

19 (e) State Board members, while serving on business of the
20 State Board, shall receive actual and necessary travel and
21 subsistence expenses while so serving away from their places of
22 residence. Until March 1, 2010, ~~a~~ member of the State Board
23 who experiences a significant financial hardship due to the
24 loss of income on days of attendance at meetings or while
25 otherwise engaged in the business of the State Board may be
26 paid a hardship allowance, as determined by and subject to the

1 approval of the Governor's Travel Control Board.

2 The Governor shall separately appoint from a list of
3 nominees selected by the Special Nomination Panel the Chairman
4 of the Board, who shall be a person with expertise in health
5 care delivery system planning, finance or management of health
6 care facilities that are regulated under the Act. The Chairman
7 shall annually review Board member performance and shall report
8 the attendance record of each Board member to the General
9 Assembly.

10 (g) Board members appointed under this amendatory Act of
11 the 96th General Assembly with unexcused absences from meetings
12 of the full Board shall be fined \$500 by way of salary
13 reductions, which may be pro-rated over 4 regularly scheduled
14 pay periods. The State Board, through the Chairman, shall
15 prepare a separate and distinct budget approved by the General
16 Assembly and shall hire and supervise its own professional
17 staff responsible for carrying out the responsibilities of the
18 Board. ~~The Governor shall designate one of the members to serve~~
19 ~~as Chairman and shall name as full time Executive Secretary of~~
20 ~~the State Board, a person qualified in health care facility~~
21 ~~planning and in administration. The Agency shall provide~~
22 ~~administrative and staff support for the State Board.~~ The State
23 Board shall advise the Director of its ~~budgetary and~~ staff
24 support needs and consult with the Director on annual budget
25 preparation.

26 (h) The State Board shall meet at least every 45 days once

1 ~~each quarter~~, or as often as the Chairman of the State Board
2 deems necessary, or upon the request of a majority of the
3 members.

4 (i) Five ~~Three~~ members of the State Board shall constitute
5 a quorum. The affirmative vote of 5 ~~3~~ of the members of the
6 State Board shall be necessary for any action requiring a vote
7 to be taken by the State Board. A vacancy in the membership of
8 the State Board shall not impair the right of a quorum to
9 exercise all the rights and perform all the duties of the State
10 Board as provided by this Act.

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

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

20 (Source: P.A. 95-331, eff. 8-21-07.)

21 (20 ILCS 3960/4.2)

22 (Section scheduled to be repealed on July 1, 2009)

23 Sec. 4.2. Ex parte communications.

24 (a) Except in the disposition of matters that agencies are
25 authorized by law to entertain or dispose of on an ex parte

1 basis including, but not limited to rule making, the State
2 Board, any State Board member, employee, or a hearing officer
3 shall not engage in ex parte communication in connection with
4 the substance of any formally filed ~~pending or impending~~
5 application for a permit with any person or party or the
6 representative of any party. This subsection (a) applies when
7 the Board, member, employee, or hearing officer knows, or
8 should know upon reasonable inquiry, that the application or
9 exemption has been formally filed with the Board. Nothing in
10 this Section shall prohibit staff members from providing
11 technical assistance to applicants. Nothing in this Section
12 shall prohibit staff from verifying or clarifying an
13 applicant's information as it prepares the State Agency Report.
14 Once an application or exemption is filed and deemed complete,
15 a written record of any communication between staff and an
16 applicant shall be prepared by staff and made part of the
17 public record. Communications that occur during the
18 administrative hearing process shall be made a part of the
19 formal public record using a prescribed, standardized format
20 and shall be included in the application file ~~is pending or~~
21 ~~impending.~~

22 (b) A State Board member or employee may communicate with
23 other members or employees and any State Board member or
24 hearing officer may have the aid and advice of one or more
25 personal assistants.

26 (c) An ex parte communication received by the State Board,

1 any State Board member, employee, or a hearing officer shall be
2 made a part of the record of the matter, including all written
3 communications, all written responses to the communications,
4 and a memorandum stating the substance of all oral
5 communications and all responses made and the identity of each
6 person from whom the ex parte communication was received.

7 (d) "Ex parte communication" means a communication between
8 a person who is not a State Board member or employee and a
9 State Board member or employee that reflects on the substance
10 of a pending or impending State Board proceeding and that takes
11 place outside the record of the proceeding. Communications
12 regarding matters of procedure and practice, such as the format
13 of pleading, number of copies required, manner of service, and
14 status of proceedings, are not considered ex parte
15 communications. Technical assistance with respect to an
16 application, not intended to influence any decision on the
17 application, may be provided by employees to the applicant. Any
18 assistance shall be documented in writing by the applicant and
19 employees within 10 business days after the assistance is
20 provided.

21 (e) For purposes of this Section, "employee" means a person
22 the State Board or the Agency employs on a full-time,
23 part-time, contract, or intern basis.

24 (f) The State Board, State Board member, or hearing
25 examiner presiding over the proceeding, in the event of a
26 violation of this Section, must take whatever action is

1 necessary to ensure that the violation does not prejudice any
2 party or adversely affect the fairness of the proceedings.

3 (g) Nothing in this Section shall be construed to prevent
4 the State Board or any member of the State Board from
5 consulting with the attorney for the State Board.

6 (Source: P.A. 93-889, eff. 8-9-04.)

7 (20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

8 (Section scheduled to be repealed on July 1, 2009)

9 Sec. 5. Construction, modification, or establishment of
10 health care facilities or acquisition of major medical
11 equipment; permits or exemptions. No ~~After effective dates set~~
12 ~~by the State Board, no~~ person shall construct, modify or
13 establish a health care facility or acquire major medical
14 equipment without first obtaining a permit or exemption from
15 the State Board. The State Board shall not delegate to the
16 staff ~~Executive Secretary~~ of the State Board or any other
17 person or entity the authority to grant permits or exemptions
18 whenever the ~~staff Executive Secretary~~ or other person or
19 entity would be required to exercise any discretion affecting
20 the decision to grant a permit or exemption. The State Board
21 may, by rule, delegate authority to the Chairman to grant
22 permits or exemptions when applications meet all of the State
23 Board's review criteria and are unopposed. ~~The State Board~~
24 shall set effective dates applicable to all or to each
25 classification or category of health care facilities and

1 ~~applicable to all or each type of transaction for which a~~
2 ~~permit is required. Varying effective dates may be set,~~
3 ~~providing the date or dates so set shall apply uniformly~~
4 ~~statewide.~~

5 ~~Notwithstanding any effective dates established by this~~
6 ~~Act or by the State Board, no person shall be required to~~
7 ~~obtain a permit for any purpose under this Act until the State~~
8 ~~health facilities plan referred to in paragraph (4) of Section~~
9 ~~12 of this Act has been approved and adopted by the State Board~~
10 ~~subsequent to public hearings having been held thereon.~~

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

14 (a) requires a total capital expenditure in excess of
15 the capital expenditure minimum; or

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

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

25 A permit shall be valid only for the defined construction
26 or modifications, site, amount and person named in the

1 application for such permit and shall not be transferable or
2 assignable. A permit shall be valid until such time as the
3 project has been completed, provided that (a) obligation of the
4 project occurs within 12 months following issuance of the
5 permit except for major construction projects such obligation
6 must occur within 18 months following issuance of the permit;
7 and (b) the project commences and proceeds to completion with
8 due diligence. To monitor progress toward project completion,
9 routine post-permit reports shall be limited to annual progress
10 reports and the final completion and cost report. Projects may
11 deviate from the costs, fees, and expenses provided in their
12 project cost information for the project's cost components,
13 provided that the final total project cost does not exceed the
14 approved permit amount. Major construction projects, for the
15 purposes of this Act, shall include but are not limited to:
16 projects for the construction of new buildings; additions to
17 existing facilities; modernization projects whose cost is in
18 excess of \$1,000,000 or 10% of the facilities' operating
19 revenue, whichever is less; and such other projects as the
20 State Board shall define and prescribe pursuant to this Act.
21 The State Board may extend the obligation period upon a showing
22 of good cause by the permit holder. Permits for projects that
23 have not been obligated within the prescribed obligation period
24 shall expire on the last day of that period.

25 ~~Persons who otherwise would be required to obtain a permit~~
26 ~~shall be exempt from such requirement if the State Board finds~~

1 ~~that with respect to establishing a new facility or~~
2 ~~construction of new buildings or additions or modifications to~~
3 ~~an existing facility, final plans and specifications for such~~
4 ~~work have prior to October 1, 1974, been submitted to and~~
5 ~~approved by the Department of Public Health in accordance with~~
6 ~~the requirements of applicable laws. Such exemptions shall be~~
7 ~~null and void after December 31, 1979 unless binding~~
8 ~~construction contracts were signed prior to December 1, 1979~~
9 ~~and unless construction has commenced prior to December 31,~~
10 ~~1979. Such exemptions shall be valid until such time as the~~
11 ~~project has been completed provided that the project proceeds~~
12 ~~to completion with due diligence.~~

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

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

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

23 (20 ILCS 3960/5.4 new)

24 Sec. 5.4. Safety Net Impact Statement.

25 (a) General review criteria shall include a requirement

1 that all health care facilities, with the exception of skilled
2 and intermediate long-term care facilities licensed under the
3 Nursing Home Care Act, provide a Safety Net Impact Statement,
4 which shall be filed with an application for a substantive
5 project or when the application proposes to discontinue a
6 category of service.

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

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

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

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

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

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

6 (1) For the 3 fiscal years prior to the application, a
7 certification describing the amount of charity care
8 provided by the applicant. The amount calculated by
9 hospital applicants shall be in accordance with the
10 reporting requirements for charity care reporting in the
11 Illinois Community Benefits Act. Non-hospital applicants
12 shall report charity care, at cost, in accordance with an
13 appropriate methodology specified by the Board.

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

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

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

7 (f) Any person, community organization, provider, or
8 health system or other entity wishing to comment upon or oppose
9 the application may file a Safety Net Impact Statement Response
10 with the Board, which shall provide additional information
11 concerning a project's impact on safety net services in the
12 community.

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

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

24 (20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

25 (Section scheduled to be repealed on July 1, 2009)

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

3 (a) An application for a permit or exemption shall be made
4 to the State Board upon forms provided by the State Board. This
5 application shall contain such information as the State Board
6 deems necessary. The State Board shall not require an applicant
7 to file a Letter of Intent before an application is filed. Such
8 application shall include affirmative evidence on which the
9 Director may make the findings required under this Section and
10 upon which the State Board or Chairman may make its decision on
11 the approval or denial of the permit or exemption.

12 (b) The State Board shall establish by regulation the
13 procedures and requirements regarding issuance of exemptions.
14 An exemption shall be approved when information required by the
15 Board by rule is submitted. Projects eligible for an exemption,
16 rather than a permit, include, but are not limited to, change
17 of ownership of a health care facility. For a change of
18 ownership of a health care facility between related persons,
19 the State Board shall provide by rule for an expedited process
20 for obtaining an exemption.

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

23 (c-5) Any written review or findings of the Board staff
24 ~~Agency~~ or any other reviewing organization under Section 8
25 concerning an application for a permit must be made available
26 to the public at least 14 calendar days before the meeting of

1 the State Board at which the review or findings are considered.
2 The applicant and members of the public may submit, to the
3 State Board, written responses regarding the facts set forth in
4 ~~support of or in opposition to~~ the review or findings of the
5 Board staff ~~Agency~~ or reviewing organization. Members of the
6 public shall submit any written response at least 10 days
7 before the meeting of the State Board. The Board staff may
8 revise any findings to address corrections of factual errors
9 cited in the public response. ~~A written response must be~~
10 ~~submitted at least 2 business days before the meeting of the~~
11 ~~State Board.~~ At the meeting, the State Board may, in its
12 discretion, permit the submission of other additional written
13 materials.

14 (d) Upon receipt of an application for a permit, the State
15 Board shall approve and authorize the issuance of a permit if
16 it finds (1) that the applicant is fit, willing, and able to
17 provide a proper standard of health care service for the
18 community with particular regard to the qualification,
19 background and character of the applicant, (2) that economic
20 feasibility is demonstrated in terms of effect on the existing
21 and projected operating budget of the applicant and of the
22 health care facility; in terms of the applicant's ability to
23 establish and operate such facility in accordance with
24 licensure regulations promulgated under pertinent state laws;
25 and in terms of the projected impact on the total health care
26 expenditures in the facility and community, (3) that safeguards

1 are provided which assure that the establishment, construction
2 or modification of the health care facility or acquisition of
3 major medical equipment is consistent with the public interest,
4 and (4) that the proposed project is consistent with the
5 orderly and economic development of such facilities and
6 equipment and is in accord with standards, criteria, or plans
7 of need adopted and approved pursuant to the provisions of
8 Section 12 of this Act.

9 (Source: P.A. 95-237, eff. 1-1-08.)

10 (20 ILCS 3960/8.5)

11 (Section scheduled to be repealed on July 1, 2009)

12 Sec. 8.5. Certificate of exemption for change of ownership
13 of a health care facility; public notice and public hearing.

14 (a) Upon a finding by the Department of Public Health that
15 an application for a change of ownership is complete, the
16 Department of Public Health shall publish a legal notice on 3
17 consecutive days in a newspaper of general circulation in the
18 area or community to be affected and afford the public an
19 opportunity to request a hearing. If the application is for a
20 facility located in a Metropolitan Statistical Area, an
21 additional legal notice shall be published in a newspaper of
22 limited circulation, if one exists, in the area in which the
23 facility is located. If the newspaper of limited circulation is
24 published on a daily basis, the additional legal notice shall
25 be published on 3 consecutive days. The legal notice shall also

1 be posted on the Health Facilities and Services Review Board's
2 ~~Illinois Health Facilities Planning Board's~~ web site and sent
3 to the State Representative and State Senator of the district
4 in which the health care facility is located. The Department of
5 Public Health shall not find that an application for change of
6 ownership of a hospital is complete without a signed
7 certification that for a period of 2 years after the change of
8 ownership transaction is effective, the hospital will not adopt
9 a charity care policy that is more restrictive than the policy
10 in effect during the year prior to the transaction.

11 For the purposes of this subsection, "newspaper of limited
12 circulation" means a newspaper intended to serve a particular
13 or defined population of a specific geographic area within a
14 Metropolitan Statistical Area such as a municipality, town,
15 village, township, or community area, but does not include
16 publications of professional and trade associations.

17 (b) If a public hearing is requested, it shall be held at
18 least 15 days but no more than 30 days after the date of
19 publication of the legal notice in the community in which the
20 facility is located. The hearing shall be held in a place of
21 reasonable size and accessibility and a full and complete
22 written transcript of the proceedings shall be made. The
23 applicant shall provide a summary of the proposed change of
24 ownership for distribution at the public hearing.

25 (Source: P.A. 93-935, eff. 1-1-05.)

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

2 (Section scheduled to be repealed on July 1, 2009)

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

6 (1) Prescribe rules, regulations, standards, criteria,
7 procedures or reviews which may vary according to the purpose
8 for which a particular review is being conducted or the type of
9 project reviewed and which are required to carry out the
10 provisions and purposes of this Act. Policies and procedures of
11 the State Board shall take into consideration the priorities
12 and needs of medically underserved areas and other health care
13 services identified through the comprehensive health planning
14 process, giving special consideration to the impact of projects
15 on access to safety net services.

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

19 (3) (Blank). ~~Prescribe criteria for recognition for~~
20 ~~areawide health planning organizations, including, but not~~
21 ~~limited to, standards for evaluating the scientific bases for~~
22 ~~judgments on need and procedure for making these~~
23 ~~determinations.~~

24 (4) Develop criteria and standards for health care
25 facilities planning, conduct statewide inventories of health
26 care facilities, maintain an updated inventory on the

1 Department's web site reflecting the most recent bed and
2 service changes and updated need determinations when new census
3 data become available or new need formulae are adopted, and
4 develop health care facility plans which shall be utilized in
5 the review of applications for permit under this Act. Such
6 health facility plans shall be coordinated by the Agency with
7 ~~the health care facility plans areawide health planning~~
8 ~~organizations and with other~~ pertinent State Plans.
9 Inventories pursuant to this Section of skilled or intermediate
10 care facilities licensed under the Nursing Home Care Act or
11 nursing homes licensed under the Hospital Licensing Act shall
12 be conducted on an annual basis no later than July 1 of each
13 year and shall include among the information requested a list
14 of all services provided by a facility to its residents and to
15 the community at large and differentiate between active and
16 inactive beds.

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

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

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

23 (c) The extent of utilization of existing facilities;

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

26 (e) The availability of personnel necessary to the

1 operation of the facility;

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

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

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

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

14 (5) Coordinate with the Center for Comprehensive Health
15 Planning and other state agencies having responsibilities
16 affecting health care facilities, including those of licensure
17 and cost reporting.

18 (6) Solicit, accept, hold and administer on behalf of the
19 State any grants or bequests of money, securities or property
20 for use by the State Board or Center for Comprehensive Health
21 Planning ~~or recognized areawide health planning organizations~~
22 in the administration of this Act; and enter into contracts
23 consistent with the appropriations for purposes enumerated in
24 this Act.

25 (7) The State Board shall prescribe, ~~in consultation with~~
26 ~~the recognized areawide health planning organizations,~~

1 procedures for review, standards, and criteria which shall be
2 utilized to make periodic ~~areawide~~ reviews and determinations
3 of the appropriateness of any existing health services being
4 rendered by health care facilities subject to the Act. The
5 State Board shall consider recommendations of the Board
6 ~~areawide health planning organization and the Agency~~ in making
7 its determinations.

8 (8) Prescribe, in consultation with the Center for
9 Comprehensive Health Planning ~~recognized areawide health~~
10 ~~planning organizations~~, rules, regulations, standards, and
11 criteria for the conduct of an expeditious review of
12 applications for permits for projects of construction or
13 modification of a health care facility, which projects are
14 classified as emergency, substantive, or non-substantive in
15 nature.

16 Six months after the effective date of this amendatory Act
17 of the 96th General Assembly, substantive projects shall
18 include no more than the following:

19 (a) Projects to construct (1) a new or replacement
20 facility located on a new site or (2) a replacement
21 facility located on the same site as the original facility
22 and the cost of the replacement facility exceeds the
23 capital expenditure minimum; or

24 (b) Projects proposing a (1) new service or (2)
25 discontinuation of a service, which shall be reviewed by
26 the State Agency within 60 days.

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

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

13 Such rules shall not abridge the right of the Center for
14 Comprehensive Health Planning ~~areawide health planning~~
15 ~~organizations~~ to make recommendations on the classification
16 and approval of projects, nor shall such rules prevent the
17 conduct of a public hearing upon the timely request of an
18 interested party. Such reviews shall not exceed 60 days from
19 the date the application is declared to be complete ~~by the~~
20 ~~Agency.~~

21 (9) Prescribe rules, regulations, standards, and criteria
22 pertaining to the granting of permits for construction and
23 modifications which are emergent in nature and must be
24 undertaken immediately to prevent or correct structural
25 deficiencies or hazardous conditions that may harm or injure
26 persons using the facility, as defined in the rules and

1 regulations of the State Board. This procedure is exempt from
2 public hearing requirements of this Act.

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

9 (11) Issue written decisions upon request of the applicant
10 or an adversely affected party to the Board within 30 days of
11 the meeting in which a final decision has been made. A "final
12 decision" for purposes of this Act is the decision to approve
13 or deny an application, or take other actions permitted under
14 this Act, at the time and date of the meeting that such action
15 is scheduled by the Board.

16 (12) Require at least one of its members to participate in
17 any public hearing, after the appointment of the 9 members to
18 the Board.

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

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

24 (15) Establish a separate set of rules and guidelines for
25 long-term care that recognizes that nursing homes are a
26 different business line and service model from other regulated

1 facilities. An open and transparent process shall be developed
2 that considers the following: how skilled nursing fits in the
3 continuum of care with other care providers, modernization,
4 establishment of more private rooms, the development of
5 alternative services, and current trends in long-term care
6 services.

7 (Source: P.A. 93-41, eff. 6-27-03; 94-983, eff. 6-30-06.)

8 (20 ILCS 3960/12.2)

9 (Section scheduled to be repealed on July 1, 2009)

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

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

17 (1.5) Post the following on the Department's web site:
18 relevant (i) rules, (ii) standards, (iii) criteria, (iv) State
19 norms, (v) references used by Agency staff in making
20 determinations about whether application criteria are met, and
21 (vi) notices of project-related filings, including notice of
22 public comments related to the application.

23 (2) Charge and collect an amount determined by the State
24 Board and the staff ~~to be reasonable fees for the processing of~~
25 ~~applications by the State Board, the Agency, and the~~

1 ~~appropriate recognized areawide health planning organization.~~
2 The State Board shall set the amounts by rule. Application fees
3 for continuing care retirement communities, and other health
4 care models that include regulated and unregulated components,
5 shall apply only to those components subject to regulation
6 under this Act. All fees and fines collected under the
7 provisions of this Act shall be deposited into the Illinois
8 Health Facilities Planning Fund to be used for the expenses of
9 administering this Act.

10 (2.1) Publish the following reports on the State Board
11 website:

12 (A) An annual accounting, aggregated by category and
13 with names of parties redacted, of fees, fines, and other
14 revenue collected as well as expenses incurred, in the
15 administration of this Act.

16 (B) An annual report, with names of the parties
17 redacted, that summarizes all settlement agreements
18 entered into with the State Board that resolve an alleged
19 instance of noncompliance with State Board requirements
20 under this Act.

21 (C) A monthly report that includes the status of
22 applications and recommendations regarding updates to the
23 standard, criteria, or the health plan as appropriate.

24 (D) State Agency reports showing the degree to which an
25 application conforms to the review standards, a summation
26 of relevant public testimony, and any additional

1 information that staff wants to communicate.

2 (3) Coordinate with other State agencies having
3 responsibilities affecting health care facilities, including
4 the Center for Comprehensive Health Planning and those of
5 licensure and cost reporting.

6 (Source: P.A. 93-41, eff. 6-27-03.)

7 (20 ILCS 3960/12.3)

8 (Section scheduled to be repealed on July 1, 2009)

9 Sec. 12.3. Revision of criteria, standards, and rules. At
10 least every 2 years ~~Before December 31, 2004,~~ the State Board
11 shall review, revise, and update ~~promulgate~~ the criteria,
12 standards, and rules used to evaluate applications for permit.
13 To the extent practicable, the criteria, standards, and rules
14 shall be based on objective criteria using the inventory and
15 recommendations of the Comprehensive Health Plan for guidance.
16 The Board may appoint temporary advisory committees made up of
17 experts with professional competence in the subject matter of
18 the proposed standards or criteria to assist in the development
19 of revisions to standards and criteria. In particular, the
20 review of the criteria, standards, and rules shall consider:

21 (1) Whether the criteria and standards reflect current
22 industry standards and anticipated trends.

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

25 (3) Whether criteria and standards can be developed to

1 authorize the construction of unfinished space for future
2 use when the ultimate need for such space can be reasonably
3 projected.

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

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

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

16 (Source: P.A. 93-41, eff. 6-27-03.)

17 (20 ILCS 3960/15.1) (from Ch. 111 1/2, par. 1165.1)

18 (Section scheduled to be repealed on July 1, 2009)

19 Sec. 15.1. No individual who, as a member of the State
20 Board ~~or of an areawide health planning organization board~~, or
21 as an employee of the State ~~or of an areawide health planning~~
22 ~~organization~~, shall, by reason of his performance of any duty,
23 function, or activity required of, or authorized to be
24 undertaken by this Act, be liable for the payment of damages
25 under any law of the State, if he has acted within the scope of

1 such duty, function, or activity, has exercised due care, and
2 has acted, with respect to that performance, without malice
3 toward any person affected by it.

4 (Source: P.A. 80-941.)

5 (20 ILCS 3960/19.5)

6 (Section scheduled to be repealed on July 1, 2009 and as
7 provided internally)

8 Sec. 19.5. Audit. Eighteen months after the last member of
9 the 9-member Board is appointed, as required under this
10 amendatory Act of the 96th General Assembly ~~Upon the effective~~
11 ~~date of this amendatory Act of the 91st General Assembly,~~ the
12 Auditor General shall commence a performance audit of the
13 Center for Comprehensive Health Planning, State Board, and the
14 Certificate of Need processes ~~must commence an audit of the~~
15 ~~State Board~~ to determine:

16 (1) whether progress is being made to develop a
17 Comprehensive Health Plan and whether resources are
18 sufficient to meet the goals of the Center for
19 Comprehensive Health Planning; ~~whether the State Board can~~
20 ~~demonstrate that the certificate of need process is~~
21 ~~successful in controlling health care costs, allowing~~
22 ~~public access to necessary health services, and~~
23 ~~guaranteeing the availability of quality health care to the~~
24 ~~general public;~~

25 (2) whether changes to the Certificate of Need

1 processes are being implemented effectively, as well as
2 their impact, if any, on access to safety net services; and
3 ~~whether the State Board is following its adopted rules and~~
4 ~~procedures;~~

5 (3) whether fines and settlements are fair,
6 consistent, and in proportion to the degree of violations.
7 ~~whether the State Board is consistent in awarding and~~
8 ~~denying certificates of need; and~~

9 ~~(4) whether the State Board's annual reports reflect a~~
10 ~~cost savings to the State.~~

11 The Auditor General must report on the results of the audit
12 to the General Assembly.

13 This Section is repealed when the Auditor General files his
14 or her report with the General Assembly.

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

16 (20 ILCS 3960/19.6)

17 (Section scheduled to be repealed on July 1, 2009)

18 Sec. 19.6. Repeal. This Act is repealed on December 31,
19 2019 ~~July 1, 2009.~~

20 (Source: P.A. 94-983, eff. 6-30-06; 95-1, eff. 3-30-07; 95-5,
21 eff. 5-31-07; 95-771, eff. 7-31-08.)

22 (20 ILCS 3960/19.7 new)

23 Sec. 19.7. Special Nomination Panel.

24 (a) The Nomination Panel is established to provide a list

1 of candidates to the Governor for appointment to the Illinois
2 Health Facilities and Services Review Board ("Board"), the
3 position of Chairman of the Board, and the Comprehensive Health
4 Planner. Members of the Nomination Panel shall be appointed by
5 a majority vote of the following appointing authorities: (1)
6 the Executive Ethics Commissioner appointed by the Secretary of
7 State; (2) the Executive Ethics Commissioner appointed by the
8 Treasurer; (3) the Executive Ethics Commissioner appointed by
9 the Comptroller; (4) the Executive Ethics Commissioner
10 appointed by the Attorney General; and (5) the Executive Ethics
11 Commissioner appointed to serve as the first Chairman of the
12 Executive Ethics Commission, or, upon his disqualification,
13 refusal to serve, or resignation, the longest-serving
14 Executive Ethics Commissioner appointed by the Governor.
15 However, the appointing authorities as of the effective date of
16 this amendatory Act of the 96th General Assembly shall remain
17 empowered to fill vacancies on the Nomination Panel until all
18 members of the new Board, the Chairman of the Board, and the
19 Comprehensive Health Planner have been appointed and
20 qualified, regardless of whether such appointing authorities
21 remain members of the Executive Ethics Commission. In the event
22 of such appointing authority's disqualification, resignation,
23 or refusal to serve as an appointing authority, the
24 Constitutional officer that appointed the Executive Ethics
25 Commissioner may name a designee to serve as an appointing
26 authority for the Nomination Panel. The appointing authorities

1 may hold so many public or non-public meetings as is required
2 to fulfill their duties, and may utilize the staff and budget
3 of the Executive Ethics Commission in carrying out their
4 duties; provided, however, that a final vote on appointees to
5 the Nomination Panel shall take place in a meeting governed by
6 the Open Meetings Act. Any ex parte communications regarding
7 the Nomination Panel must be made a part of the record at the
8 next public meeting and part of a written record. The
9 appointing authorities shall file a list of members of the
10 Nomination Panel with the Secretary of State within 60 days
11 after the effective date of this amendatory Act of the 96th
12 General Assembly. A vacancy on the Nomination Panel due to
13 disqualification or resignation must be filled within 60 days
14 of a vacancy and the appointing authorities must file the name
15 of the new appointee with the Secretary of State.

16 (b) The Nomination Panel shall consist of 9 members, who
17 may include former federal or State judges from Illinois,
18 former federal prosecutors from Illinois, former sworn federal
19 officers with investigatory experience with a federal agency,
20 or former members of federal agencies with experience in
21 regulatory oversight. Two members shall have at least 5 years
22 of experience with nonprofit agencies in Illinois committed to
23 public-interest advocacy. Members shall submit statements of
24 economic interest to the Secretary of State. Each member of the
25 Nomination Panel shall receive \$300 for each day the Nomination
26 Panel meets. The Executive Ethics Commission shall provide

1 staff and support to the Nomination Panel pursuant to
2 appropriations available for those purposes.

3 (c) Candidates for nomination to the Illinois Health
4 Facilities and Services Review Board, Chairman of the Board, or
5 the position of Comprehensive Health Planner may apply or be
6 nominated. All candidates must fill out a written application
7 and submit to a background investigation to be eligible for
8 consideration. The written application must include, at a
9 minimum, a sworn statement disclosing any communications that
10 the applicant has engaged in with a constitutional officer, a
11 member of the General Assembly, a special government agent (as
12 that term is defined in Section 4A-101 of the Illinois
13 Governmental Ethics Act), a member of the Board or the
14 Nomination Panel, a director, secretary, or other employee of
15 the executive branch of the State, or an employee of the
16 legislative branch of the State related to the regulation of
17 health facilities and services within the last year. A person
18 who knowingly provides false or misleading information on the
19 application or knowingly fails to disclose a communication
20 required to be disclosed in the sworn statement under this
21 Section is guilty of a Class 4 felony.

22 (d) Once an application is submitted to the Nomination
23 Panel and until (1) the nominee is rejected by the Nomination
24 Panel, (2) the nominee is rejected by the Governor, (3) the
25 candidate is rejected by the Senate, or (4) the candidate is
26 confirmed by the Senate, whichever is applicable, a candidate

1 may not engage in ex parte communications, as that term is
2 defined in Section 5.7 of this Act.

3 (e) The Nomination Panel shall conduct a background
4 investigation on candidates eligible for nomination to the
5 Board, Chairman of the Board, or the position of Comprehensive
6 Health Planner. For the purpose of making the initial
7 nominations after the effective date of this amendatory Act of
8 the 96th General Assembly, the Nomination Panel shall request
9 the assistance of the Federal Bureau of Investigation to
10 conduct background investigations. If the Federal Bureau of
11 Investigation does not agree to conduct background
12 investigations, or the Federal Bureau of Investigations cannot
13 conduct the background investigations within 120 days after the
14 request is made, the Nomination Panel may contract with an
15 independent agency that specializes in conducting personal
16 investigations. The Nomination Panel may not engage the
17 services or enter into any contract with State or local law
18 enforcement agencies for the conduct of background
19 investigations.

20 (f) The Nomination Panel must review written applications,
21 determine eligibility for oral interviews, confirm
22 satisfactory background investigations, and hold public
23 hearings on qualifications of candidates. Initial interviews
24 of candidates need not be held in meetings subject to the Open
25 Meetings Act; members or staff may arrange for informal
26 interviews. Prior to recommendation, however, the Nomination

1 Panel must question candidates in a meeting subject to the Open
2 Meetings Act under oath.

3 (g) The Nomination Panel must recommend candidates for
4 nomination to the Board, the Chairman of the Board, and the
5 position of Comprehensive Health Planner. The Nomination Panel
6 shall recommend 3 candidates for every open position and
7 prepare a memorandum detailing the candidates' qualifications.
8 The names and the memorandum must be delivered to the Governor
9 and filed with the Secretary of State. The Governor may choose
10 only from the recommendations of the Nomination Panel and must
11 nominate a candidate for every open position within 30 days of
12 receiving the recommendations. The Governor shall file the
13 names of his nominees with the Secretary of the Senate and the
14 Secretary of State. If the Governor does not name a nominee for
15 every open position, then the Nomination Panel may select the
16 remaining nominees for the Board, Chairman of the Board, or the
17 position of Comprehensive Health Planner. For the purpose of
18 making the initial recommendations after the effective date of
19 this amendatory Act of the 96th General Assembly, the
20 Nomination Panel shall make recommendations to the Governor no
21 later than 150 days after appointment of all members of the
22 Nomination Panel. For the purpose of filling subsequent
23 vacancies, the Nomination Panel shall make recommendations to
24 the Governor within 90 days of a vacancy in office.

25 (h) Selections by the Governor must receive the advice and
26 consent of the Illinois Senate by record vote of at least

1 two-thirds of the members elected.

2 (20 ILCS 3960/8 rep.)

3 (20 ILCS 3960/9 rep.)

4 (20 ILCS 3960/15.5 rep.)

5 Section 25. The Illinois Health Facilities Planning Act is
6 amended by repealing Sections 8, 9, and 15.5.

7 Section 30. The Hospital Basic Services Preservation Act is
8 amended by changing Section 15 as follows:

9 (20 ILCS 4050/15)

10 Sec. 15. Basic services loans.

11 (a) Essential community hospitals seeking
12 collateralization of loans under this Act must apply to the
13 Illinois Health Facilities Planning Board on a form prescribed
14 by the Health Facilities and Services Review Board ~~Illinois~~
15 ~~Health Facilities Planning Board~~ by rule. The Health Facilities
16 and Services Review Board ~~Illinois Health Facilities Planning~~
17 ~~Board~~ shall review the application and, if it approves the
18 applicant's plan, shall forward the application and its
19 approval to the Hospital Basic Services Review Board.

20 (b) Upon receipt of the applicant's application and
21 approval from the Health Facilities and Services Review Board
22 ~~Illinois Health Facilities Planning Board~~, the Hospital Basic
23 Services Review Board shall request from the applicant and the

1 applicant shall submit to the Hospital Basic Services Review
2 Board all of the following information:

3 (1) A copy of the hospital's last audited financial
4 statement.

5 (2) The percentage of the hospital's patients each year
6 who are Medicaid patients.

7 (3) The percentage of the hospital's patients each year
8 who are Medicare patients.

9 (4) The percentage of the hospital's patients each year
10 who are uninsured.

11 (5) The percentage of services provided by the hospital
12 each year for which the hospital expected payment but for
13 which no payment was received.

14 (6) Any other information required by the Hospital
15 Basic Services Review Board by rule.

16 The Hospital Basic Services Review Board shall review the
17 applicant's original application, the approval of the Health
18 Facilities and Services Review Board ~~Illinois Health~~
19 ~~Facilities Planning Board~~, and the information provided by the
20 applicant to the Hospital Basic Services Review Board under
21 this Section and make a recommendation to the State Treasurer
22 to accept or deny the application.

23 (c) If the Hospital Basic Services Review Board recommends
24 that the application be accepted, the State Treasurer may
25 collateralize the applicant's basic service loan for eligible
26 expenses related to completing, attaining, or upgrading basic

1 services, including, but not limited to, delivery,
2 installation, staff training, and other eligible expenses as
3 defined by the State Treasurer by rule. The total cost for any
4 one project to be undertaken by the applicants shall not exceed
5 \$10,000,000 and the amount of each basic services loan
6 collateralized under this Act shall not exceed \$5,000,000.
7 Expenditures related to basic service loans shall not exceed
8 the amount available in the Fund necessary to collateralize the
9 loans. The terms of any basic services loan collateralized
10 under this Act must be approved by the State Treasurer in
11 accordance with standards established by the State Treasurer by
12 rule.

13 (Source: P.A. 94-648, eff. 1-1-06.)

14 Section 35. The Illinois State Auditing Act is amended by
15 changing Section 3-1 as follows:

16 (30 ILCS 5/3-1) (from Ch. 15, par. 303-1)

17 Sec. 3-1. Jurisdiction of Auditor General. The Auditor
18 General has jurisdiction over all State agencies to make post
19 audits and investigations authorized by or under this Act or
20 the Constitution.

21 The Auditor General has jurisdiction over local government
22 agencies and private agencies only:

23 (a) to make such post audits authorized by or under
24 this Act as are necessary and incidental to a post audit of

1 a State agency or of a program administered by a State
2 agency involving public funds of the State, but this
3 jurisdiction does not include any authority to review local
4 governmental agencies in the obligation, receipt,
5 expenditure or use of public funds of the State that are
6 granted without limitation or condition imposed by law,
7 other than the general limitation that such funds be used
8 for public purposes;

9 (b) to make investigations authorized by or under this
10 Act or the Constitution; and

11 (c) to make audits of the records of local government
12 agencies to verify actual costs of state-mandated programs
13 when directed to do so by the Legislative Audit Commission
14 at the request of the State Board of Appeals under the
15 State Mandates Act.

16 In addition to the foregoing, the Auditor General may
17 conduct an audit of the Metropolitan Pier and Exposition
18 Authority, the Regional Transportation Authority, the Suburban
19 Bus Division, the Commuter Rail Division and the Chicago
20 Transit Authority and any other subsidized carrier when
21 authorized by the Legislative Audit Commission. Such audit may
22 be a financial, management or program audit, or any combination
23 thereof.

24 The audit shall determine whether they are operating in
25 accordance with all applicable laws and regulations. Subject to
26 the limitations of this Act, the Legislative Audit Commission

1 may by resolution specify additional determinations to be
2 included in the scope of the audit.

3 In addition to the foregoing, the Auditor General must also
4 conduct a financial audit of the Illinois Sports Facilities
5 Authority's expenditures of public funds in connection with the
6 reconstruction, renovation, remodeling, extension, or
7 improvement of all or substantially all of any existing
8 "facility", as that term is defined in the Illinois Sports
9 Facilities Authority Act.

10 The Auditor General may also conduct an audit, when
11 authorized by the Legislative Audit Commission, of any hospital
12 which receives 10% or more of its gross revenues from payments
13 from the State of Illinois, Department of Healthcare and Family
14 Services (formerly Department of Public Aid), Medical
15 Assistance Program.

16 The Auditor General is authorized to conduct financial and
17 compliance audits of the Illinois Distance Learning Foundation
18 and the Illinois Conservation Foundation.

19 As soon as practical after the effective date of this
20 amendatory Act of 1995, the Auditor General shall conduct a
21 compliance and management audit of the City of Chicago and any
22 other entity with regard to the operation of Chicago O'Hare
23 International Airport, Chicago Midway Airport and Merrill C.
24 Meigs Field. The audit shall include, but not be limited to, an
25 examination of revenues, expenses, and transfers of funds;
26 purchasing and contracting policies and practices; staffing

1 levels; and hiring practices and procedures. When completed,
2 the audit required by this paragraph shall be distributed in
3 accordance with Section 3-14.

4 The Auditor General shall conduct a financial and
5 compliance and program audit of distributions from the
6 Municipal Economic Development Fund during the immediately
7 preceding calendar year pursuant to Section 8-403.1 of the
8 Public Utilities Act at no cost to the city, village, or
9 incorporated town that received the distributions.

10 The Auditor General must conduct an audit of the Health
11 Facilities and Services Review Board ~~Health Facilities~~
12 ~~Planning Board~~ pursuant to Section 19.5 of the Illinois Health
13 Facilities Planning Act.

14 The Auditor General of the State of Illinois shall annually
15 conduct or cause to be conducted a financial and compliance
16 audit of the books and records of any county water commission
17 organized pursuant to the Water Commission Act of 1985 and
18 shall file a copy of the report of that audit with the Governor
19 and the Legislative Audit Commission. The filed audit shall be
20 open to the public for inspection. The cost of the audit shall
21 be charged to the county water commission in accordance with
22 Section 6z-27 of the State Finance Act. The county water
23 commission shall make available to the Auditor General its
24 books and records and any other documentation, whether in the
25 possession of its trustees or other parties, necessary to
26 conduct the audit required. These audit requirements apply only

1 through July 1, 2007.

2 The Auditor General must conduct audits of the Rend Lake
3 Conservancy District as provided in Section 25.5 of the River
4 Conservancy Districts Act.

5 The Auditor General must conduct financial audits of the
6 Southeastern Illinois Economic Development Authority as
7 provided in Section 70 of the Southeastern Illinois Economic
8 Development Authority Act.

9 (Source: P.A. 95-331, eff. 8-21-07.)

10 Section 40. The Alternative Health Care Delivery Act is
11 amended by changing Sections 20, 30, and 36.5 as follows:

12 (210 ILCS 3/20)

13 Sec. 20. Board responsibilities. The State Board of Health
14 shall have the responsibilities set forth in this Section.

15 (a) The Board shall investigate new health care delivery
16 models and recommend to the Governor and the General Assembly,
17 through the Department, those models that should be authorized
18 as alternative health care models for which demonstration
19 programs should be initiated. In its deliberations, the Board
20 shall use the following criteria:

21 (1) The feasibility of operating the model in Illinois,
22 based on a review of the experience in other states
23 including the impact on health professionals of other
24 health care programs or facilities.

1 (2) The potential of the model to meet an unmet need.

2 (3) The potential of the model to reduce health care
3 costs to consumers, costs to third party payors, and
4 aggregate costs to the public.

5 (4) The potential of the model to maintain or improve
6 the standards of health care delivery in some measurable
7 fashion.

8 (5) The potential of the model to provide increased
9 choices or access for patients.

10 (b) The Board shall evaluate and make recommendations to
11 the Governor and the General Assembly, through the Department,
12 regarding alternative health care model demonstration programs
13 established under this Act, at the midpoint and end of the
14 period of operation of the demonstration programs. The report
15 shall include, at a minimum, the following:

16 (1) Whether the alternative health care models
17 improved access to health care for their service
18 populations in the State.

19 (2) The quality of care provided by the alternative
20 health care models as may be evidenced by health outcomes,
21 surveillance reports, and administrative actions taken by
22 the Department.

23 (3) The cost and cost effectiveness to the public,
24 third-party payors, and government of the alternative
25 health care models, including the impact of pilot programs
26 on aggregate health care costs in the area. In addition to

1 any other information collected by the Board under this
2 Section, the Board shall collect from postsurgical
3 recovery care centers uniform billing data substantially
4 the same as specified in Section 4-2(e) of the Illinois
5 Health Finance Reform Act. To facilitate its evaluation of
6 that data, the Board shall forward a copy of the data to
7 the Illinois Health Care Cost Containment Council. All
8 patient identifiers shall be removed from the data before
9 it is submitted to the Board or Council.

10 (4) The impact of the alternative health care models on
11 the health care system in that area, including changing
12 patterns of patient demand and utilization, financial
13 viability, and feasibility of operation of service in
14 inpatient and alternative models in the area.

15 (5) The implementation by alternative health care
16 models of any special commitments made during application
17 review to the Health Facilities and Services Review Board
18 ~~Illinois Health Facilities Planning Board~~.

19 (6) The continuation, expansion, or modification of
20 the alternative health care models.

21 (c) The Board shall advise the Department on the definition
22 and scope of alternative health care models demonstration
23 programs.

24 (d) In carrying out its responsibilities under this
25 Section, the Board shall seek the advice of other Department
26 advisory boards or committees that may be impacted by the

1 alternative health care model or the proposed model of health
2 care delivery. The Board shall also seek input from other
3 interested parties, which may include holding public hearings.

4 (e) The Board shall otherwise advise the Department on the
5 administration of the Act as the Board deems appropriate.

6 (Source: P.A. 87-1188; 88-441.)

7 (210 ILCS 3/30)

8 Sec. 30. Demonstration program requirements. The
9 requirements set forth in this Section shall apply to
10 demonstration programs.

11 (a) There shall be no more than:

12 (i) 3 subacute care hospital alternative health care
13 models in the City of Chicago (one of which shall be
14 located on a designated site and shall have been licensed
15 as a hospital under the Illinois Hospital Licensing Act
16 within the 10 years immediately before the application for
17 a license);

18 (ii) 2 subacute care hospital alternative health care
19 models in the demonstration program for each of the
20 following areas:

21 (1) Cook County outside the City of Chicago.

22 (2) DuPage, Kane, Lake, McHenry, and Will
23 Counties.

24 (3) Municipalities with a population greater than
25 50,000 not located in the areas described in item (i)

1 of subsection (a) and paragraphs (1) and (2) of item
2 (ii) of subsection (a); and
3 (iii) 4 subacute care hospital alternative health care
4 models in the demonstration program for rural areas.

5 In selecting among applicants for these licenses in rural
6 areas, the Health Facilities and Services Review Board ~~Health~~
7 ~~Facilities Planning Board~~ and the Department shall give
8 preference to hospitals that may be unable for economic reasons
9 to provide continued service to the community in which they are
10 located unless the hospital were to receive an alternative
11 health care model license.

12 (a-5) There shall be no more than a total of 12
13 postsurgical recovery care center alternative health care
14 models in the demonstration program, located as follows:

15 (1) Two in the City of Chicago.

16 (2) Two in Cook County outside the City of Chicago. At
17 least one of these shall be owned or operated by a hospital
18 devoted exclusively to caring for children.

19 (3) Two in Kane, Lake, and McHenry Counties.

20 (4) Four in municipalities with a population of 50,000
21 or more not located in the areas described in paragraphs
22 (1), (2), and (3), 3 of which shall be owned or operated by
23 hospitals, at least 2 of which shall be located in counties
24 with a population of less than 175,000, according to the
25 most recent decennial census for which data are available,
26 and one of which shall be owned or operated by an

1 ambulatory surgical treatment center.

2 (5) Two in rural areas, both of which shall be owned or
3 operated by hospitals.

4 There shall be no postsurgical recovery care center
5 alternative health care models located in counties with
6 populations greater than 600,000 but less than 1,000,000. A
7 proposed postsurgical recovery care center must be owned or
8 operated by a hospital if it is to be located within, or will
9 primarily serve the residents of, a health service area in
10 which more than 60% of the gross patient revenue of the
11 hospitals within that health service area are derived from
12 Medicaid and Medicare, according to the most recently available
13 calendar year data from the Illinois Health Care Cost
14 Containment Council. Nothing in this paragraph shall preclude a
15 hospital and an ambulatory surgical treatment center from
16 forming a joint venture or developing a collaborative agreement
17 to own or operate a postsurgical recovery care center.

18 (a-10) There shall be no more than a total of 8 children's
19 respite care center alternative health care models in the
20 demonstration program, which shall be located as follows:

21 (1) One in the City of Chicago.

22 (2) One in Cook County outside the City of Chicago.

23 (3) A total of 2 in the area comprised of DuPage, Kane,
24 Lake, McHenry, and Will counties.

25 (4) A total of 2 in municipalities with a population of
26 50,000 or more and not located in the areas described in

1 paragraphs (1), (2), or (3).

2 (5) A total of 2 in rural areas, as defined by the
3 Health Facilities and Services Review Board Health
4 ~~Facilities Planning Board.~~

5 No more than one children's respite care model owned and
6 operated by a licensed skilled pediatric facility shall be
7 located in each of the areas designated in this subsection
8 (a-10).

9 (a-15) There shall be an authorized community-based
10 residential rehabilitation center alternative health care
11 model in the demonstration program. ~~The community-based~~
12 ~~residential rehabilitation center shall be located in the area~~
13 ~~of Illinois south of Interstate Highway 70.~~

14 (a-20) There shall be an authorized Alzheimer's disease
15 management center alternative health care model in the
16 demonstration program. The Alzheimer's disease management
17 center shall be located in Will County, owned by a
18 not-for-profit entity, and endorsed by a resolution approved by
19 the county board before the effective date of this amendatory
20 Act of the 91st General Assembly.

21 (a-25) There shall be no more than 10 birth center
22 alternative health care models in the demonstration program,
23 located as follows:

24 (1) Four in the area comprising Cook, DuPage, Kane,
25 Lake, McHenry, and Will counties, one of which shall be
26 owned or operated by a hospital and one of which shall be

1 owned or operated by a federally qualified health center.

2 (2) Three in municipalities with a population of 50,000
3 or more not located in the area described in paragraph (1)
4 of this subsection, one of which shall be owned or operated
5 by a hospital and one of which shall be owned or operated
6 by a federally qualified health center.

7 (3) Three in rural areas, one of which shall be owned
8 or operated by a hospital and one of which shall be owned
9 or operated by a federally qualified health center.

10 The first 3 birth centers authorized to operate by the
11 Department shall be located in or predominantly serve the
12 residents of a health professional shortage area as determined
13 by the United States Department of Health and Human Services.
14 There shall be no more than 2 birth centers authorized to
15 operate in any single health planning area for obstetric
16 services as determined under the Illinois Health Facilities
17 Planning Act. If a birth center is located outside of a health
18 professional shortage area, (i) the birth center shall be
19 located in a health planning area with a demonstrated need for
20 obstetrical service beds, as determined by the Health
21 Facilities and Services Review Board ~~Illinois Health~~
22 ~~Facilities Planning Board~~ or (ii) there must be a reduction in
23 the existing number of obstetrical service beds in the planning
24 area so that the establishment of the birth center does not
25 result in an increase in the total number of obstetrical
26 service beds in the health planning area.

1 (b) Alternative health care models, other than a model
2 authorized under subsections (a-15) and ~~subsection~~ (a-20),
3 shall obtain a certificate of need from the Health Facilities
4 and Services Review Board ~~Illinois Health Facilities Planning~~
5 ~~Board~~ under the Illinois Health Facilities Planning Act before
6 receiving a license by the Department. If, after obtaining its
7 initial certificate of need, an alternative health care
8 delivery model that is a community based residential
9 rehabilitation center seeks to increase the bed capacity of
10 that center, it must obtain a certificate of need from the
11 Health Facilities and Services Review Board ~~Illinois Health~~
12 ~~Facilities Planning Board~~ before increasing the bed capacity.
13 Alternative health care models in medically underserved areas
14 shall receive priority in obtaining a certificate of need.

15 (c) An alternative health care model license shall be
16 issued for a period of one year and shall be annually renewed
17 if the facility or program is in substantial compliance with
18 the Department's rules adopted under this Act. A licensed
19 alternative health care model that continues to be in
20 substantial compliance after the conclusion of the
21 demonstration program shall be eligible for annual renewals
22 unless and until a different licensure program for that type of
23 health care model is established by legislation. The Department
24 may issue a provisional license to any alternative health care
25 model that does not substantially comply with the provisions of
26 this Act and the rules adopted under this Act if (i) the

1 Department finds that the alternative health care model has
2 undertaken changes and corrections which upon completion will
3 render the alternative health care model in substantial
4 compliance with this Act and rules and (ii) the health and
5 safety of the patients of the alternative health care model
6 will be protected during the period for which the provisional
7 license is issued. The Department shall advise the licensee of
8 the conditions under which the provisional license is issued,
9 including the manner in which the alternative health care model
10 fails to comply with the provisions of this Act and rules, and
11 the time within which the changes and corrections necessary for
12 the alternative health care model to substantially comply with
13 this Act and rules shall be completed.

14 (d) Alternative health care models shall seek
15 certification under Titles XVIII and XIX of the federal Social
16 Security Act. In addition, alternative health care models shall
17 provide charitable care consistent with that provided by
18 comparable health care providers in the geographic area.

19 (d-5) The Department of Healthcare and Family Services
20 (formerly Illinois Department of Public Aid), in cooperation
21 with the Illinois Department of Public Health, shall develop
22 and implement a reimbursement methodology for all facilities
23 participating in the demonstration program. The Department of
24 Healthcare and Family Services shall keep a record of services
25 provided under the demonstration program to recipients of
26 medical assistance under the Illinois Public Aid Code and shall

1 submit an annual report of that information to the Illinois
2 Department of Public Health.

3 (e) Alternative health care models shall, to the extent
4 possible, link and integrate their services with nearby health
5 care facilities.

6 (f) Each alternative health care model shall implement a
7 quality assurance program with measurable benefits and at
8 reasonable cost.

9 (Source: P.A. 95-331, eff. 8-21-07; 95-445, eff. 1-1-08.)

10 (210 ILCS 3/36.5)

11 Sec. 36.5. Alternative health care models authorized.
12 Notwithstanding any other law to the contrary, alternative
13 health care models described in part 1 of Section 35 shall be
14 licensed without additional consideration by the Health
15 Facilities and Services Review Board ~~Illinois Health~~
16 ~~Facilities Planning Board~~ if:

17 (1) an application for such a model was filed with the
18 Health Facilities and Services Review Board ~~Illinois~~
19 ~~Health Facilities Planning Board~~ prior to September 1,
20 1994;

21 (2) the application was received by the Health
22 Facilities and Services Review Board ~~Illinois Health~~
23 ~~Facilities Planning Board~~ and was awarded at least the
24 minimum number of points required for approval by the Board
25 or, if the application was withdrawn prior to Board action,

1 the staff report recommended at least the minimum number of
2 points required for approval by the Board; and

3 (3) the applicant complies with all regulations of the
4 Illinois Department of Public Health to receive a license
5 pursuant to part 1 of Section 35.

6 (Source: P.A. 89-393, eff. 8-20-95.)

7 Section 45. The Assisted Living and Shared Housing Act is
8 amended by changing Section 145 as follows:

9 (210 ILCS 9/145)

10 Sec. 145. Conversion of facilities. Entities licensed as
11 facilities under the Nursing Home Care Act may elect to convert
12 to a license under this Act. Any facility that chooses to
13 convert, in whole or in part, shall follow the requirements in
14 the Nursing Home Care Act and rules promulgated under that Act
15 regarding voluntary closure and notice to residents. Any
16 conversion of existing beds licensed under the Nursing Home
17 Care Act to licensure under this Act is exempt from review by
18 the Health Facilities and Services Review Board ~~Health~~
19 ~~Facilities Planning Board~~.

20 (Source: P.A. 91-656, eff. 1-1-01.)

21 Section 50. The Emergency Medical Services (EMS) Systems
22 Act is amended by changing Section 32.5 as follows:

1 (210 ILCS 50/32.5)

2 Sec. 32.5. Freestanding Emergency Center.

3 (a) Until June 30, 2009, the Department shall issue an
4 annual Freestanding Emergency Center (FEC) license to any
5 facility that:

6 (1) is located: (A) in a municipality with a population
7 of 75,000 or fewer inhabitants; (B) within 20 miles of the
8 hospital that owns or controls the FEC; and (C) within 20
9 miles of the Resource Hospital affiliated with the FEC as
10 part of the EMS System;

11 (2) is wholly owned or controlled by an Associate or
12 Resource Hospital, but is not a part of the hospital's
13 physical plant;

14 (3) meets the standards for licensed FECs, adopted by
15 rule of the Department, including, but not limited to:

16 (A) facility design, specification, operation, and
17 maintenance standards;

18 (B) equipment standards; and

19 (C) the number and qualifications of emergency
20 medical personnel and other staff, which must include
21 at least one board certified emergency physician
22 present at the FEC 24 hours per day.

23 (4) limits its participation in the EMS System strictly
24 to receiving a limited number of BLS runs by emergency
25 medical vehicles according to protocols developed by the
26 Resource Hospital within the FEC's designated EMS System

1 and approved by the Project Medical Director and the
2 Department;

3 (5) provides comprehensive emergency treatment
4 services, as defined in the rules adopted by the Department
5 pursuant to the Hospital Licensing Act, 24 hours per day,
6 on an outpatient basis;

7 (6) provides an ambulance and maintains on site
8 ambulance services staffed with paramedics 24 hours per
9 day;

10 (7) maintains helicopter landing capabilities approved
11 by appropriate State and federal authorities;

12 (8) complies with all State and federal patient rights
13 provisions, including, but not limited to, the Emergency
14 Medical Treatment Act and the federal Emergency Medical
15 Treatment and Active Labor Act;

16 (9) maintains a communications system that is fully
17 integrated with its Resource Hospital within the FEC's
18 designated EMS System;

19 (10) reports to the Department any patient transfers
20 from the FEC to a hospital within 48 hours of the transfer
21 plus any other data determined to be relevant by the
22 Department;

23 (11) submits to the Department, on a quarterly basis,
24 the FEC's morbidity and mortality rates for patients
25 treated at the FEC and other data determined to be relevant
26 by the Department;

1 (12) does not describe itself or hold itself out to the
2 general public as a full service hospital or hospital
3 emergency department in its advertising or marketing
4 activities;

5 (13) complies with any other rules adopted by the
6 Department under this Act that relate to FECs;

7 (14) passes the Department's site inspection for
8 compliance with the FEC requirements of this Act;

9 (15) submits a copy of the permit issued by the Health
10 Facilities and Services Review Board ~~Illinois Health~~
11 ~~Facilities Planning Board~~ indicating that the facility has
12 complied with the Illinois Health Facilities Planning Act
13 with respect to the health services to be provided at the
14 facility;

15 (16) submits an application for designation as an FEC
16 in a manner and form prescribed by the Department by rule;
17 and

18 (17) pays the annual license fee as determined by the
19 Department by rule.

20 (b) The Department shall:

21 (1) annually inspect facilities of initial FEC
22 applicants and licensed FECs, and issue annual licenses to
23 or annually relicense FECs that satisfy the Department's
24 licensure requirements as set forth in subsection (a);

25 (2) suspend, revoke, refuse to issue, or refuse to
26 renew the license of any FEC, after notice and an

1 opportunity for a hearing, when the Department finds that
2 the FEC has failed to comply with the standards and
3 requirements of the Act or rules adopted by the Department
4 under the Act;

5 (3) issue an Emergency Suspension Order for any FEC
6 when the Director or his or her designee has determined
7 that the continued operation of the FEC poses an immediate
8 and serious danger to the public health, safety, and
9 welfare. An opportunity for a hearing shall be promptly
10 initiated after an Emergency Suspension Order has been
11 issued; and

12 (4) adopt rules as needed to implement this Section.

13 (Source: P.A. 95-584, eff. 8-31-07.)

14 Section 55. The Health Care Worker Self-Referral Act is
15 amended by changing Sections 5, 15, and 30 as follows:

16 (225 ILCS 47/5)

17 Sec. 5. Legislative intent. The General Assembly
18 recognizes that patient referrals by health care workers for
19 health services to an entity in which the referring health care
20 worker has an investment interest may present a potential
21 conflict of interest. The General Assembly finds that these
22 referral practices may limit or completely eliminate
23 competitive alternatives in the health care market. In some
24 instances, these referral practices may expand and improve care

1 or may make services available which were previously
2 unavailable. They may also provide lower cost options to
3 patients or increase competition. Generally, referral
4 practices are positive occurrences. However, self-referrals
5 may result in over utilization of health services, increased
6 overall costs of the health care systems, and may affect the
7 quality of health care.

8 It is the intent of the General Assembly to provide
9 guidance to health care workers regarding acceptable patient
10 referrals, to prohibit patient referrals to entities providing
11 health services in which the referring health care worker has
12 an investment interest, and to protect the citizens of Illinois
13 from unnecessary and costly health care expenditures.

14 Recognizing the need for flexibility to quickly respond to
15 changes in the delivery of health services, to avoid results
16 beyond the limitations on self referral provided under this Act
17 and to provide minimal disruption to the appropriate delivery
18 of health care, the Health Facilities and Services Review Board
19 ~~Health Facilities Planning Board~~ shall be exclusively and
20 solely authorized to implement and interpret this Act through
21 adopted rules.

22 The General Assembly recognizes that changes in delivery of
23 health care has resulted in various methods by which health
24 care workers practice their professions. It is not the intent
25 of the General Assembly to limit appropriate delivery of care,
26 nor force unnecessary changes in the structures created by

1 workers for the health and convenience of their patients.

2 (Source: P.A. 87-1207.)

3 (225 ILCS 47/15)

4 Sec. 15. Definitions. In this Act:

5 (a) "Board" means the Health Facilities and Services Review
6 Board ~~Health Facilities Planning Board~~.

7 (b) "Entity" means any individual, partnership, firm,
8 corporation, or other business that provides health services
9 but does not include an individual who is a health care worker
10 who provides professional services to an individual.

11 (c) "Group practice" means a group of 2 or more health care
12 workers legally organized as a partnership, professional
13 corporation, not-for-profit corporation, faculty practice plan
14 or a similar association in which:

15 (1) each health care worker who is a member or employee
16 or an independent contractor of the group provides
17 substantially the full range of services that the health
18 care worker routinely provides, including consultation,
19 diagnosis, or treatment, through the use of office space,
20 facilities, equipment, or personnel of the group;

21 (2) the services of the health care workers are
22 provided through the group, and payments received for
23 health services are treated as receipts of the group; and

24 (3) the overhead expenses and the income from the
25 practice are distributed by methods previously determined

1 by the group.

2 (d) "Health care worker" means any individual licensed
3 under the laws of this State to provide health services,
4 including but not limited to: dentists licensed under the
5 Illinois Dental Practice Act; dental hygienists licensed under
6 the Illinois Dental Practice Act; nurses and advanced practice
7 nurses licensed under the Nurse Practice Act; occupational
8 therapists licensed under the Illinois Occupational Therapy
9 Practice Act; optometrists licensed under the Illinois
10 Optometric Practice Act of 1987; pharmacists licensed under the
11 Pharmacy Practice Act; physical therapists licensed under the
12 Illinois Physical Therapy Act; physicians licensed under the
13 Medical Practice Act of 1987; physician assistants licensed
14 under the Physician Assistant Practice Act of 1987; podiatrists
15 licensed under the Podiatric Medical Practice Act of 1987;
16 clinical psychologists licensed under the Clinical
17 Psychologist Licensing Act; clinical social workers licensed
18 under the Clinical Social Work and Social Work Practice Act;
19 speech-language pathologists and audiologists licensed under
20 the Illinois Speech-Language Pathology and Audiology Practice
21 Act; or hearing instrument dispensers licensed under the
22 Hearing Instrument Consumer Protection Act, or any of their
23 successor Acts.

24 (e) "Health services" means health care procedures and
25 services provided by or through a health care worker.

26 (f) "Immediate family member" means a health care worker's

1 spouse, child, child's spouse, or a parent.

2 (g) "Investment interest" means an equity or debt security
3 issued by an entity, including, without limitation, shares of
4 stock in a corporation, units or other interests in a
5 partnership, bonds, debentures, notes, or other equity
6 interests or debt instruments except that investment interest
7 for purposes of Section 20 does not include interest in a
8 hospital licensed under the laws of the State of Illinois.

9 (h) "Investor" means an individual or entity directly or
10 indirectly owning a legal or beneficial ownership or investment
11 interest, (such as through an immediate family member, trust,
12 or another entity related to the investor).

13 (i) "Office practice" includes the facility or facilities
14 at which a health care worker, on an ongoing basis, provides or
15 supervises the provision of professional health services to
16 individuals.

17 (j) "Referral" means any referral of a patient for health
18 services, including, without limitation:

19 (1) The forwarding of a patient by one health care
20 worker to another health care worker or to an entity
21 outside the health care worker's office practice or group
22 practice that provides health services.

23 (2) The request or establishment by a health care
24 worker of a plan of care outside the health care worker's
25 office practice or group practice that includes the
26 provision of any health services.

1 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;
2 95-876, eff. 8-21-08.)

3 (225 ILCS 47/30)

4 Sec. 30. Rulemaking. The Health Facilities and Services
5 Review Board ~~Health Facilities Planning Board~~ shall
6 exclusively and solely implement the provisions of this Act
7 pursuant to rules adopted in accordance with the Illinois
8 Administrative Procedure Act concerning, but not limited to:

9 (a) Standards and procedures for the administration of this
10 Act.

11 (b) Procedures and criteria for exceptions from the
12 prohibitions set forth in Section 20.

13 (c) Procedures and criteria for determining practical
14 compliance with the needs and alternative investor criteria in
15 Section 20.

16 (d) Procedures and criteria for determining when a written
17 request for an opinion set forth in Section 20 is complete.

18 (e) Procedures and criteria for advising health care
19 workers of the applicability of this Act to practices pursuant
20 to written requests.

21 (Source: P.A. 87-1207.)

22 Section 60. The Illinois Public Aid Code is amended by
23 changing Section 5-5.02 as follows:

1 (305 ILCS 5/5-5.02) (from Ch. 23, par. 5-5.02)

2 Sec. 5-5.02. Hospital reimbursements.

3 (a) Reimbursement to Hospitals; July 1, 1992 through
4 September 30, 1992. Notwithstanding any other provisions of
5 this Code or the Illinois Department's Rules promulgated under
6 the Illinois Administrative Procedure Act, reimbursement to
7 hospitals for services provided during the period July 1, 1992
8 through September 30, 1992, shall be as follows:

9 (1) For inpatient hospital services rendered, or if
10 applicable, for inpatient hospital discharges occurring,
11 on or after July 1, 1992 and on or before September 30,
12 1992, the Illinois Department shall reimburse hospitals
13 for inpatient services under the reimbursement
14 methodologies in effect for each hospital, and at the
15 inpatient payment rate calculated for each hospital, as of
16 June 30, 1992. For purposes of this paragraph,
17 "reimbursement methodologies" means all reimbursement
18 methodologies that pertain to the provision of inpatient
19 hospital services, including, but not limited to, any
20 adjustments for disproportionate share, targeted access,
21 critical care access and uncompensated care, as defined by
22 the Illinois Department on June 30, 1992.

23 (2) For the purpose of calculating the inpatient
24 payment rate for each hospital eligible to receive
25 quarterly adjustment payments for targeted access and
26 critical care, as defined by the Illinois Department on

1 June 30, 1992, the adjustment payment for the period July
2 1, 1992 through September 30, 1992, shall be 25% of the
3 annual adjustment payments calculated for each eligible
4 hospital, as of June 30, 1992. The Illinois Department
5 shall determine by rule the adjustment payments for
6 targeted access and critical care beginning October 1,
7 1992.

8 (3) For the purpose of calculating the inpatient
9 payment rate for each hospital eligible to receive
10 quarterly adjustment payments for uncompensated care, as
11 defined by the Illinois Department on June 30, 1992, the
12 adjustment payment for the period August 1, 1992 through
13 September 30, 1992, shall be one-sixth of the total
14 uncompensated care adjustment payments calculated for each
15 eligible hospital for the uncompensated care rate year, as
16 defined by the Illinois Department, ending on July 31,
17 1992. The Illinois Department shall determine by rule the
18 adjustment payments for uncompensated care beginning
19 October 1, 1992.

20 (b) Inpatient payments. For inpatient services provided on
21 or after October 1, 1993, in addition to rates paid for
22 hospital inpatient services pursuant to the Illinois Health
23 Finance Reform Act, as now or hereafter amended, or the
24 Illinois Department's prospective reimbursement methodology,
25 or any other methodology used by the Illinois Department for
26 inpatient services, the Illinois Department shall make

1 adjustment payments, in an amount calculated pursuant to the
2 methodology described in paragraph (c) of this Section, to
3 hospitals that the Illinois Department determines satisfy any
4 one of the following requirements:

5 (1) Hospitals that are described in Section 1923 of the
6 federal Social Security Act, as now or hereafter amended;
7 or

8 (2) Illinois hospitals that have a Medicaid inpatient
9 utilization rate which is at least one-half a standard
10 deviation above the mean Medicaid inpatient utilization
11 rate for all hospitals in Illinois receiving Medicaid
12 payments from the Illinois Department; or

13 (3) Illinois hospitals that on July 1, 1991 had a
14 Medicaid inpatient utilization rate, as defined in
15 paragraph (h) of this Section, that was at least the mean
16 Medicaid inpatient utilization rate for all hospitals in
17 Illinois receiving Medicaid payments from the Illinois
18 Department and which were located in a planning area with
19 one-third or fewer excess beds as determined by the Health
20 Facilities and Services Review Board ~~Illinois Health~~
21 ~~Facilities Planning Board~~, and that, as of June 30, 1992,
22 were located in a federally designated Health Manpower
23 Shortage Area; or

24 (4) Illinois hospitals that:

25 (A) have a Medicaid inpatient utilization rate
26 that is at least equal to the mean Medicaid inpatient

1 utilization rate for all hospitals in Illinois
2 receiving Medicaid payments from the Department; and

3 (B) also have a Medicaid obstetrical inpatient
4 utilization rate that is at least one standard
5 deviation above the mean Medicaid obstetrical
6 inpatient utilization rate for all hospitals in
7 Illinois receiving Medicaid payments from the
8 Department for obstetrical services; or

9 (5) Any children's hospital, which means a hospital
10 devoted exclusively to caring for children. A hospital
11 which includes a facility devoted exclusively to caring for
12 children shall be considered a children's hospital to the
13 degree that the hospital's Medicaid care is provided to
14 children if either (i) the facility devoted exclusively to
15 caring for children is separately licensed as a hospital by
16 a municipality prior to September 30, 1998 or (ii) the
17 hospital has been designated by the State as a Level III
18 perinatal care facility, has a Medicaid Inpatient
19 Utilization rate greater than 55% for the rate year 2003
20 disproportionate share determination, and has more than
21 10,000 qualified children days as defined by the Department
22 in rulemaking.

23 (c) Inpatient adjustment payments. The adjustment payments
24 required by paragraph (b) shall be calculated based upon the
25 hospital's Medicaid inpatient utilization rate as follows:

26 (1) hospitals with a Medicaid inpatient utilization

1 rate below the mean shall receive a per day adjustment
2 payment equal to \$25;

3 (2) hospitals with a Medicaid inpatient utilization
4 rate that is equal to or greater than the mean Medicaid
5 inpatient utilization rate but less than one standard
6 deviation above the mean Medicaid inpatient utilization
7 rate shall receive a per day adjustment payment equal to
8 the sum of \$25 plus \$1 for each one percent that the
9 hospital's Medicaid inpatient utilization rate exceeds the
10 mean Medicaid inpatient utilization rate;

11 (3) hospitals with a Medicaid inpatient utilization
12 rate that is equal to or greater than one standard
13 deviation above the mean Medicaid inpatient utilization
14 rate but less than 1.5 standard deviations above the mean
15 Medicaid inpatient utilization rate shall receive a per day
16 adjustment payment equal to the sum of \$40 plus \$7 for each
17 one percent that the hospital's Medicaid inpatient
18 utilization rate exceeds one standard deviation above the
19 mean Medicaid inpatient utilization rate; and

20 (4) hospitals with a Medicaid inpatient utilization
21 rate that is equal to or greater than 1.5 standard
22 deviations above the mean Medicaid inpatient utilization
23 rate shall receive a per day adjustment payment equal to
24 the sum of \$90 plus \$2 for each one percent that the
25 hospital's Medicaid inpatient utilization rate exceeds 1.5
26 standard deviations above the mean Medicaid inpatient

1 utilization rate.

2 (d) Supplemental adjustment payments. In addition to the
3 adjustment payments described in paragraph (c), hospitals as
4 defined in clauses (1) through (5) of paragraph (b), excluding
5 county hospitals (as defined in subsection (c) of Section 15-1
6 of this Code) and a hospital organized under the University of
7 Illinois Hospital Act, shall be paid supplemental inpatient
8 adjustment payments of \$60 per day. For purposes of Title XIX
9 of the federal Social Security Act, these supplemental
10 adjustment payments shall not be classified as adjustment
11 payments to disproportionate share hospitals.

12 (e) The inpatient adjustment payments described in
13 paragraphs (c) and (d) shall be increased on October 1, 1993
14 and annually thereafter by a percentage equal to the lesser of
15 (i) the increase in the DRI hospital cost index for the most
16 recent 12 month period for which data are available, or (ii)
17 the percentage increase in the statewide average hospital
18 payment rate over the previous year's statewide average
19 hospital payment rate. The sum of the inpatient adjustment
20 payments under paragraphs (c) and (d) to a hospital, other than
21 a county hospital (as defined in subsection (c) of Section 15-1
22 of this Code) or a hospital organized under the University of
23 Illinois Hospital Act, however, shall not exceed \$275 per day;
24 that limit shall be increased on October 1, 1993 and annually
25 thereafter by a percentage equal to the lesser of (i) the
26 increase in the DRI hospital cost index for the most recent

1 12-month period for which data are available or (ii) the
2 percentage increase in the statewide average hospital payment
3 rate over the previous year's statewide average hospital
4 payment rate.

5 (f) Children's hospital inpatient adjustment payments. For
6 children's hospitals, as defined in clause (5) of paragraph
7 (b), the adjustment payments required pursuant to paragraphs
8 (c) and (d) shall be multiplied by 2.0.

9 (g) County hospital inpatient adjustment payments. For
10 county hospitals, as defined in subsection (c) of Section 15-1
11 of this Code, there shall be an adjustment payment as
12 determined by rules issued by the Illinois Department.

13 (h) For the purposes of this Section the following terms
14 shall be defined as follows:

15 (1) "Medicaid inpatient utilization rate" means a
16 fraction, the numerator of which is the number of a
17 hospital's inpatient days provided in a given 12-month
18 period to patients who, for such days, were eligible for
19 Medicaid under Title XIX of the federal Social Security
20 Act, and the denominator of which is the total number of
21 the hospital's inpatient days in that same period.

22 (2) "Mean Medicaid inpatient utilization rate" means
23 the total number of Medicaid inpatient days provided by all
24 Illinois Medicaid-participating hospitals divided by the
25 total number of inpatient days provided by those same
26 hospitals.

1 (3) "Medicaid obstetrical inpatient utilization rate"
2 means the ratio of Medicaid obstetrical inpatient days to
3 total Medicaid inpatient days for all Illinois hospitals
4 receiving Medicaid payments from the Illinois Department.

5 (i) Inpatient adjustment payment limit. In order to meet
6 the limits of Public Law 102-234 and Public Law 103-66, the
7 Illinois Department shall by rule adjust disproportionate
8 share adjustment payments.

9 (j) University of Illinois Hospital inpatient adjustment
10 payments. For hospitals organized under the University of
11 Illinois Hospital Act, there shall be an adjustment payment as
12 determined by rules adopted by the Illinois Department.

13 (k) The Illinois Department may by rule establish criteria
14 for and develop methodologies for adjustment payments to
15 hospitals participating under this Article.

16 (Source: P.A. 93-40, eff. 6-27-03.)

17 Section 65. The Older Adult Services Act is amended by
18 changing Sections 20, 25, and 30 as follows:

19 (320 ILCS 42/20)

20 Sec. 20. Priority service areas; service expansion.

21 (a) The requirements of this Section are subject to the
22 availability of funding.

23 (b) The Department shall expand older adult services that
24 promote independence and permit older adults to remain in their

1 own homes and communities. Priority shall be given to both the
2 expansion of services and the development of new services in
3 priority service areas.

4 (c) Inventory of services. The Department shall develop and
5 maintain an inventory and assessment of (i) the types and
6 quantities of public older adult services and, to the extent
7 possible, privately provided older adult services, including
8 the unduplicated count, location, and characteristics of
9 individuals served by each facility, program, or service and
10 (ii) the resources supporting those services.

11 (d) Priority service areas. The Departments shall assess
12 the current and projected need for older adult services
13 throughout the State, analyze the results of the inventory, and
14 identify priority service areas, which shall serve as the basis
15 for a priority service plan to be filed with the Governor and
16 the General Assembly no later than July 1, 2006, and every 5
17 years thereafter.

18 (e) Moneys appropriated by the General Assembly for the
19 purpose of this Section, receipts from donations, grants, fees,
20 or taxes that may accrue from any public or private sources to
21 the Department for the purpose of this Section, and savings
22 attributable to the nursing home conversion program as
23 calculated in subsection (h) shall be deposited into the
24 Department on Aging State Projects Fund. Interest earned by
25 those moneys in the Fund shall be credited to the Fund.

26 (f) Moneys described in subsection (e) from the Department

1 on Aging State Projects Fund shall be used for older adult
2 services, regardless of where the older adult receives the
3 service, with priority given to both the expansion of services
4 and the development of new services in priority service areas.
5 Fundable services shall include:

6 (1) Housing, health services, and supportive services:

7 (A) adult day care;

8 (B) adult day care for persons with Alzheimer's
9 disease and related disorders;

10 (C) activities of daily living;

11 (D) care-related supplies and equipment;

12 (E) case management;

13 (F) community reintegration;

14 (G) companion;

15 (H) congregate meals;

16 (I) counseling and education;

17 (J) elder abuse prevention and intervention;

18 (K) emergency response and monitoring;

19 (L) environmental modifications;

20 (M) family caregiver support;

21 (N) financial;

22 (O) home delivered meals;

23 (P) homemaker;

24 (Q) home health;

25 (R) hospice;

26 (S) laundry;

1 (T) long-term care ombudsman;
2 (U) medication reminders;
3 (V) money management;
4 (W) nutrition services;
5 (X) personal care;
6 (Y) respite care;
7 (Z) residential care;
8 (AA) senior benefits outreach;
9 (BB) senior centers;
10 (CC) services provided under the Assisted Living
11 and Shared Housing Act, or sheltered care services that
12 meet the requirements of the Assisted Living and Shared
13 Housing Act, or services provided under Section
14 5-5.01a of the Illinois Public Aid Code (the Supportive
15 Living Facilities Program);
16 (DD) telemedicine devices to monitor recipients in
17 their own homes as an alternative to hospital care,
18 nursing home care, or home visits;
19 (EE) training for direct family caregivers;
20 (FF) transition;
21 (GG) transportation;
22 (HH) wellness and fitness programs; and
23 (II) other programs designed to assist older
24 adults in Illinois to remain independent and receive
25 services in the most integrated residential setting
26 possible for that person.

1 (2) Older Adult Services Demonstration Grants,
2 pursuant to subsection (g) of this Section.

3 (g) Older Adult Services Demonstration Grants. The
4 Department shall establish a program of demonstration grants to
5 assist in the restructuring of the delivery system for older
6 adult services and provide funding for innovative service
7 delivery models and system change and integration initiatives.
8 The Department shall prescribe, by rule, the grant application
9 process. At a minimum, every application must include:

- 10 (1) The type of grant sought;
- 11 (2) A description of the project;
- 12 (3) The objective of the project;
- 13 (4) The likelihood of the project meeting identified
14 needs;
- 15 (5) The plan for financing, administration, and
16 evaluation of the project;
- 17 (6) The timetable for implementation;
- 18 (7) The roles and capabilities of responsible
19 individuals and organizations;
- 20 (8) Documentation of collaboration with other service
21 providers, local community government leaders, and other
22 stakeholders, other providers, and any other stakeholders
23 in the community;
- 24 (9) Documentation of community support for the
25 project, including support by other service providers,
26 local community government leaders, and other

1 stakeholders;

2 (10) The total budget for the project;

3 (11) The financial condition of the applicant; and

4 (12) Any other application requirements that may be
5 established by the Department by rule.

6 Each project may include provisions for a designated staff
7 person who is responsible for the development of the project
8 and recruitment of providers.

9 Projects may include, but are not limited to: adult family
10 foster care; family adult day care; assisted living in a
11 supervised apartment; personal services in a subsidized
12 housing project; evening and weekend home care coverage; small
13 incentive grants to attract new providers; money following the
14 person; cash and counseling; managed long-term care; and at
15 least one respite care project that establishes a local
16 coordinated network of volunteer and paid respite workers,
17 coordinates assignment of respite workers to caregivers and
18 older adults, ensures the health and safety of the older adult,
19 provides training for caregivers, and ensures that support
20 groups are available in the community.

21 A demonstration project funded in whole or in part by an
22 Older Adult Services Demonstration Grant is exempt from the
23 requirements of the Illinois Health Facilities Planning Act. To
24 the extent applicable, however, for the purpose of maintaining
25 the statewide inventory authorized by the Illinois Health
26 Facilities Planning Act, the Department shall send to the

1 Health Facilities and Services Review Board ~~Health Facilities~~
2 ~~Planning Board~~ a copy of each grant award made under this
3 subsection (g).

4 The Department, in collaboration with the Departments of
5 Public Health and Healthcare and Family Services, shall
6 evaluate the effectiveness of the projects receiving grants
7 under this Section.

8 (h) No later than July 1 of each year, the Department of
9 Public Health shall provide information to the Department of
10 Healthcare and Family Services to enable the Department of
11 Healthcare and Family Services to annually document and verify
12 the savings attributable to the nursing home conversion program
13 for the previous fiscal year to estimate an annual amount of
14 such savings that may be appropriated to the Department on
15 Aging State Projects Fund and notify the General Assembly, the
16 Department on Aging, the Department of Human Services, and the
17 Advisory Committee of the savings no later than October 1 of
18 the same fiscal year.

19 (Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07.)

20 (320 ILCS 42/25)

21 Sec. 25. Older adult services restructuring. No later than
22 January 1, 2005, the Department shall commence the process of
23 restructuring the older adult services delivery system.
24 Priority shall be given to both the expansion of services and
25 the development of new services in priority service areas.

1 Subject to the availability of funding, the restructuring shall
2 include, but not be limited to, the following:

3 (1) Planning. The Department shall develop a plan to
4 restructure the State's service delivery system for older
5 adults. The plan shall include a schedule for the
6 implementation of the initiatives outlined in this Act and all
7 other initiatives identified by the participating agencies to
8 fulfill the purposes of this Act. Financing for older adult
9 services shall be based on the principle that "money follows
10 the individual". The plan shall also identify potential
11 impediments to delivery system restructuring and include any
12 known regulatory or statutory barriers.

13 (2) Comprehensive case management. The Department shall
14 implement a statewide system of holistic comprehensive case
15 management. The system shall include the identification and
16 implementation of a universal, comprehensive assessment tool
17 to be used statewide to determine the level of functional,
18 cognitive, socialization, and financial needs of older adults.
19 This tool shall be supported by an electronic intake,
20 assessment, and care planning system linked to a central
21 location. "Comprehensive case management" includes services
22 and coordination such as (i) comprehensive assessment of the
23 older adult (including the physical, functional, cognitive,
24 psycho-social, and social needs of the individual); (ii)
25 development and implementation of a service plan with the older
26 adult to mobilize the formal and family resources and services

1 identified in the assessment to meet the needs of the older
2 adult, including coordination of the resources and services
3 with any other plans that exist for various formal services,
4 such as hospital discharge plans, and with the information and
5 assistance services; (iii) coordination and monitoring of
6 formal and family service delivery, including coordination and
7 monitoring to ensure that services specified in the plan are
8 being provided; (iv) periodic reassessment and revision of the
9 status of the older adult with the older adult or, if
10 necessary, the older adult's designated representative; and
11 (v) in accordance with the wishes of the older adult, advocacy
12 on behalf of the older adult for needed services or resources.

13 (3) Coordinated point of entry. The Department shall
14 implement and publicize a statewide coordinated point of entry
15 using a uniform name, identity, logo, and toll-free number.

16 (4) Public web site. The Department shall develop a public
17 web site that provides links to available services, resources,
18 and reference materials concerning caregiving, diseases, and
19 best practices for use by professionals, older adults, and
20 family caregivers.

21 (5) Expansion of older adult services. The Department shall
22 expand older adult services that promote independence and
23 permit older adults to remain in their own homes and
24 communities.

25 (6) Consumer-directed home and community-based services.
26 The Department shall expand the range of service options

1 available to permit older adults to exercise maximum choice and
2 control over their care.

3 (7) Comprehensive delivery system. The Department shall
4 expand opportunities for older adults to receive services in
5 systems that integrate acute and chronic care.

6 (8) Enhanced transition and follow-up services. The
7 Department shall implement a program of transition from one
8 residential setting to another and follow-up services,
9 regardless of residential setting, pursuant to rules with
10 respect to (i) resident eligibility, (ii) assessment of the
11 resident's health, cognitive, social, and financial needs,
12 (iii) development of transition plans, and (iv) the level of
13 services that must be available before transitioning a resident
14 from one setting to another.

15 (9) Family caregiver support. The Department shall develop
16 strategies for public and private financing of services that
17 supplement and support family caregivers.

18 (10) Quality standards and quality improvement. The
19 Department shall establish a core set of uniform quality
20 standards for all providers that focus on outcomes and take
21 into consideration consumer choice and satisfaction, and the
22 Department shall require each provider to implement a
23 continuous quality improvement process to address consumer
24 issues. The continuous quality improvement process must
25 benchmark performance, be person-centered and data-driven, and
26 focus on consumer satisfaction.

1 (11) Workforce. The Department shall develop strategies to
2 attract and retain a qualified and stable worker pool, provide
3 living wages and benefits, and create a work environment that
4 is conducive to long-term employment and career development.
5 Resources such as grants, education, and promotion of career
6 opportunities may be used.

7 (12) Coordination of services. The Department shall
8 identify methods to better coordinate service networks to
9 maximize resources and minimize duplication of services and
10 ease of application.

11 (13) Barriers to services. The Department shall identify
12 barriers to the provision, availability, and accessibility of
13 services and shall implement a plan to address those barriers.
14 The plan shall: (i) identify barriers, including but not
15 limited to, statutory and regulatory complexity, reimbursement
16 issues, payment issues, and labor force issues; (ii) recommend
17 changes to State or federal laws or administrative rules or
18 regulations; (iii) recommend application for federal waivers
19 to improve efficiency and reduce cost and paperwork; (iv)
20 develop innovative service delivery models; and (v) recommend
21 application for federal or private service grants.

22 (14) Reimbursement and funding. The Department shall
23 investigate and evaluate costs and payments by defining costs
24 to implement a uniform, audited provider cost reporting system
25 to be considered by all Departments in establishing payments.
26 To the extent possible, multiple cost reporting mandates shall

1 not be imposed.

2 (15) Medicaid nursing home cost containment and Medicare
3 utilization. The Department of Healthcare and Family Services
4 (formerly Department of Public Aid), in collaboration with the
5 Department on Aging and the Department of Public Health and in
6 consultation with the Advisory Committee, shall propose a plan
7 to contain Medicaid nursing home costs and maximize Medicare
8 utilization. The plan must not impair the ability of an older
9 adult to choose among available services. The plan shall
10 include, but not be limited to, (i) techniques to maximize the
11 use of the most cost-effective services without sacrificing
12 quality and (ii) methods to identify and serve older adults in
13 need of minimal services to remain independent, but who are
14 likely to develop a need for more extensive services in the
15 absence of those minimal services.

16 (16) Bed reduction. The Department of Public Health shall
17 implement a nursing home conversion program to reduce the
18 number of Medicaid-certified nursing home beds in areas with
19 excess beds. The Department of Healthcare and Family Services
20 shall investigate changes to the Medicaid nursing facility
21 reimbursement system in order to reduce beds. Such changes may
22 include, but are not limited to, incentive payments that will
23 enable facilities to adjust to the restructuring and expansion
24 of services required by the Older Adult Services Act, including
25 adjustments for the voluntary closure or layaway of nursing
26 home beds certified under Title XIX of the federal Social

1 Security Act. Any savings shall be reallocated to fund
2 home-based or community-based older adult services pursuant to
3 Section 20.

4 (17) Financing. The Department shall investigate and
5 evaluate financing options for older adult services and shall
6 make recommendations in the report required by Section 15
7 concerning the feasibility of these financing arrangements.
8 These arrangements shall include, but are not limited to:

9 (A) private long-term care insurance coverage for
10 older adult services;

11 (B) enhancement of federal long-term care financing
12 initiatives;

13 (C) employer benefit programs such as medical savings
14 accounts for long-term care;

15 (D) individual and family cost-sharing options;

16 (E) strategies to reduce reliance on government
17 programs;

18 (F) fraudulent asset divestiture and financial
19 planning prevention; and

20 (G) methods to supplement and support family and
21 community caregiving.

22 (18) Older Adult Services Demonstration Grants. The
23 Department shall implement a program of demonstration grants
24 that will assist in the restructuring of the older adult
25 services delivery system, and shall provide funding for
26 innovative service delivery models and system change and

1 integration initiatives pursuant to subsection (g) of Section
2 20.

3 (19) Bed need methodology update. For the purposes of
4 determining areas with excess beds, the Departments shall
5 provide information and assistance to the Health Facilities and
6 Services Review Board ~~Health Facilities Planning Board~~ to
7 update the Bed Need Methodology for Long-Term Care to update
8 the assumptions used to establish the methodology to make them
9 consistent with modern older adult services.

10 (20) Affordable housing. The Departments shall utilize the
11 recommendations of Illinois' Annual Comprehensive Housing
12 Plan, as developed by the Affordable Housing Task Force through
13 the Governor's Executive Order 2003-18, in their efforts to
14 address the affordable housing needs of older adults.

15 The Older Adult Services Advisory Committee shall
16 investigate innovative and promising practices operating as
17 demonstration or pilot projects in Illinois and in other
18 states. The Department on Aging shall provide the Older Adult
19 Services Advisory Committee with a list of all demonstration or
20 pilot projects funded by the Department on Aging, including
21 those specified by rule, law, policy memorandum, or funding
22 arrangement. The Committee shall work with the Department on
23 Aging to evaluate the viability of expanding these programs
24 into other areas of the State.

25 (Source: P.A. 93-1031, eff. 8-27-04; 94-236, eff. 7-14-05;
26 94-766, eff. 1-1-07.)

1 (320 ILCS 42/30)

2 Sec. 30. Nursing home conversion program.

3 (a) The Department of Public Health, in collaboration with
4 the Department on Aging and the Department of Healthcare and
5 Family Services, shall establish a nursing home conversion
6 program. Start-up grants, pursuant to subsections (l) and (m)
7 of this Section, shall be made available to nursing homes as
8 appropriations permit as an incentive to reduce certified beds,
9 retrofit, and retool operations to meet new service delivery
10 expectations and demands.

11 (b) Grant moneys shall be made available for capital and
12 other costs related to: (1) the conversion of all or a part of
13 a nursing home to an assisted living establishment or a special
14 program or unit for persons with Alzheimer's disease or related
15 disorders licensed under the Assisted Living and Shared Housing
16 Act or a supportive living facility established under Section
17 5-5.01a of the Illinois Public Aid Code; (2) the conversion of
18 multi-resident bedrooms in the facility into single-occupancy
19 rooms; and (3) the development of any of the services
20 identified in a priority service plan that can be provided by a
21 nursing home within the confines of a nursing home or
22 transportation services. Grantees shall be required to provide
23 a minimum of a 20% match toward the total cost of the project.

24 (c) Nothing in this Act shall prohibit the co-location of
25 services or the development of multifunctional centers under

1 subsection (f) of Section 20, including a nursing home offering
2 community-based services or a community provider establishing
3 a residential facility.

4 (d) A certified nursing home with at least 50% of its
5 resident population having their care paid for by the Medicaid
6 program is eligible to apply for a grant under this Section.

7 (e) Any nursing home receiving a grant under this Section
8 shall reduce the number of certified nursing home beds by a
9 number equal to or greater than the number of beds being
10 converted for one or more of the permitted uses under item (1)
11 or (2) of subsection (b). The nursing home shall retain the
12 Certificate of Need for its nursing and sheltered care beds
13 that were converted for 15 years. If the beds are reinstated by
14 the provider or its successor in interest, the provider shall
15 pay to the fund from which the grant was awarded, on an
16 amortized basis, the amount of the grant. The Department shall
17 establish, by rule, the bed reduction methodology for nursing
18 homes that receive a grant pursuant to item (3) of subsection
19 (b).

20 (f) Any nursing home receiving a grant under this Section
21 shall agree that, for a minimum of 10 years after the date that
22 the grant is awarded, a minimum of 50% of the nursing home's
23 resident population shall have their care paid for by the
24 Medicaid program. If the nursing home provider or its successor
25 in interest ceases to comply with the requirement set forth in
26 this subsection, the provider shall pay to the fund from which

1 the grant was awarded, on an amortized basis, the amount of the
2 grant.

3 (g) Before awarding grants, the Department of Public Health
4 shall seek recommendations from the Department on Aging and the
5 Department of Healthcare and Family Services. The Department of
6 Public Health shall attempt to balance the distribution of
7 grants among geographic regions, and among small and large
8 nursing homes. The Department of Public Health shall develop,
9 by rule, the criteria for the award of grants based upon the
10 following factors:

11 (1) the unique needs of older adults (including those
12 with moderate and low incomes), caregivers, and providers
13 in the geographic area of the State the grantee seeks to
14 serve;

15 (2) whether the grantee proposes to provide services in
16 a priority service area;

17 (3) the extent to which the conversion or transition
18 will result in the reduction of certified nursing home beds
19 in an area with excess beds;

20 (4) the compliance history of the nursing home; and

21 (5) any other relevant factors identified by the
22 Department, including standards of need.

23 (h) A conversion funded in whole or in part by a grant
24 under this Section must not:

25 (1) diminish or reduce the quality of services
26 available to nursing home residents;

1 (2) force any nursing home resident to involuntarily
2 accept home-based or community-based services instead of
3 nursing home services;

4 (3) diminish or reduce the supply and distribution of
5 nursing home services in any community below the level of
6 need, as defined by the Department by rule; or

7 (4) cause undue hardship on any person who requires
8 nursing home care.

9 (i) The Department shall prescribe, by rule, the grant
10 application process. At a minimum, every application must
11 include:

12 (1) the type of grant sought;

13 (2) a description of the project;

14 (3) the objective of the project;

15 (4) the likelihood of the project meeting identified
16 needs;

17 (5) the plan for financing, administration, and
18 evaluation of the project;

19 (6) the timetable for implementation;

20 (7) the roles and capabilities of responsible
21 individuals and organizations;

22 (8) documentation of collaboration with other service
23 providers, local community government leaders, and other
24 stakeholders, other providers, and any other stakeholders
25 in the community;

26 (9) documentation of community support for the

1 project, including support by other service providers,
2 local community government leaders, and other
3 stakeholders;

4 (10) the total budget for the project;

5 (11) the financial condition of the applicant; and

6 (12) any other application requirements that may be
7 established by the Department by rule.

8 (j) A conversion project funded in whole or in part by a
9 grant under this Section is exempt from the requirements of the
10 Illinois Health Facilities Planning Act. The Department of
11 Public Health, however, shall send to the Health Facilities and
12 Services Review Board ~~Health Facilities Planning Board~~ a copy
13 of each grant award made under this Section.

14 (k) Applications for grants are public information, except
15 that nursing home financial condition and any proprietary data
16 shall be classified as nonpublic data.

17 (l) The Department of Public Health may award grants from
18 the Long Term Care Civil Money Penalties Fund established under
19 Section 1919(h) (2) (A) (ii) of the Social Security Act and 42 CFR
20 488.422(g) if the award meets federal requirements.

21 (Source: P.A. 95-331, eff. 8-21-07.)

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

1		INDEX
2		Statutes amended in order of appearance
3	5 ILCS 120/1.02	from Ch. 102, par. 41.02
4	5 ILCS 430/5-50	
5	20 ILCS 5/5-565	was 20 ILCS 5/6.06
6	20 ILCS 2310/2310-217 new	
7	20 ILCS 3960/2	from Ch. 111 1/2, par. 1152
8	20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
9	20 ILCS 3960/4	from Ch. 111 1/2, par. 1154
10	20 ILCS 3960/4.2	
11	20 ILCS 3960/5	from Ch. 111 1/2, par. 1155
12	20 ILCS 3960/5.4 new	
13	20 ILCS 3960/6	from Ch. 111 1/2, par. 1156
14	20 ILCS 3960/8.5	
15	20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
16	20 ILCS 3960/12.2	
17	20 ILCS 3960/12.3	
18	20 ILCS 3960/15.1	from Ch. 111 1/2, par. 1165.1
19	20 ILCS 3960/19.5	
20	20 ILCS 3960/19.6	
21	20 ILCS 3960/19.7 new	
22	20 ILCS 3960/8 rep.	
23	20 ILCS 3960/9 rep.	
24	20 ILCS 3960/15.5 rep.	
25	20 ILCS 4050/15	

- 1 30 ILCS 5/3-1 from Ch. 15, par. 303-1
- 2 210 ILCS 3/20
- 3 210 ILCS 3/30
- 4 210 ILCS 3/36.5
- 5 210 ILCS 9/145
- 6 210 ILCS 50/32.5
- 7 225 ILCS 47/5
- 8 225 ILCS 47/15
- 9 225 ILCS 47/30
- 10 305 ILCS 5/5-5.02 from Ch. 23, par. 5-5.02
- 11 320 ILCS 42/20
- 12 320 ILCS 42/25
- 13 320 ILCS 42/30