

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Sections 3, 13, and 14.1 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Section scheduled to be repealed on December 31, 2019)

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

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

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

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

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

18 3.5. Skilled and intermediate care facilities licensed
19 under the ID/DD Community Care Act;

20 3.7. Facilities licensed under the Specialized Mental
21 Health Rehabilitation Act;

22 4. Hospitals, nursing homes, ambulatory surgical
23 treatment centers, or kidney disease treatment centers

1 maintained by the State or any department or agency
2 thereof;

3 5. Kidney disease treatment centers, including a
4 free-standing hemodialysis unit required to be licensed
5 under the End Stage Renal Disease Facility Act;

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

10 7. An institution, place, building, or room used for
11 provision of a health care category of service as defined
12 by the Board, including, but not limited to, cardiac
13 catheterization and open heart surgery; and

14 8. An institution, place, building, or room used for
15 provision of major medical equipment used in the direct
16 clinical diagnosis or treatment of patients, and whose
17 project cost is in excess of the capital expenditure
18 minimum.

19 This Act shall not apply to the construction of any new
20 facility or the renovation of any existing facility located on
21 any campus facility as defined in Section 5-5.8b of the
22 Illinois Public Aid Code, provided that the campus facility
23 encompasses 30 or more contiguous acres and that the new or
24 renovated facility is intended for use by a licensed
25 residential facility.

26 No federally owned facility shall be subject to the

1 provisions of this Act, nor facilities used solely for healing
2 by prayer or spiritual means.

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

6 No facility established and operating under the
7 Alternative Health Care Delivery Act as a children's respite
8 care center alternative health care model demonstration
9 program or as an Alzheimer's Disease Management Center
10 alternative health care model demonstration program shall be
11 subject to the provisions of this Act.

12 A facility designated as a supportive living facility that
13 is in good standing with the program established under Section
14 5-5.01a of the Illinois Public Aid Code shall not be subject to
15 the provisions of this Act.

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

22 This Act does not apply to a dialysis facility that
23 provides only dialysis training, support, and related services
24 to individuals with end stage renal disease who have elected to
25 receive home dialysis. This Act does not apply to a dialysis
26 unit located in a licensed nursing home that offers or provides

1 dialysis-related services to residents with end stage renal
2 disease who have elected to receive home dialysis within the
3 nursing home. The Board, however, may require these dialysis
4 facilities and licensed nursing homes to report statistical
5 information on a quarterly basis to the Board to be used by the
6 Board to conduct analyses on the need for proposed kidney
7 disease treatment centers.

8 This Act shall not apply to the closure of an entity or a
9 portion of an entity licensed under the Nursing Home Care Act,
10 the Specialized Mental Health Rehabilitation Act, or the ID/DD
11 ~~MR/DD~~ Community Care Act, with the exceptions of facilities
12 operated by a county or Illinois Veterans Homes, that elects to
13 convert, in whole or in part, to an assisted living or shared
14 housing establishment licensed under the Assisted Living and
15 Shared Housing Act.

16 This Act does not apply to any change of ownership of a
17 healthcare facility that is licensed under the Nursing Home
18 Care Act, the Specialized Mental Health Rehabilitation Act, or
19 the ID/DD Community Care Act, with the exceptions of facilities
20 operated by a county or Illinois Veterans Homes. Changes of
21 ownership of facilities licensed under the Nursing Home Care
22 Act must meet the requirements set forth in Sections 3-101
23 through 3-119 of the Nursing Home Care Act.

24 With the exception of those health care facilities
25 specifically included in this Section, nothing in this Act
26 shall be intended to include facilities operated as a part of

1 the practice of a physician or other licensed health care
2 professional, whether practicing in his individual capacity or
3 within the legal structure of any partnership, medical or
4 professional corporation, or unincorporated medical or
5 professional group. Further, this Act shall not apply to
6 physicians or other licensed health care professional's
7 practices where such practices are carried out in a portion of
8 a health care facility under contract with such health care
9 facility by a physician or by other licensed health care
10 professionals, whether practicing in his individual capacity
11 or within the legal structure of any partnership, medical or
12 professional corporation, or unincorporated medical or
13 professional groups. This Act shall apply to construction or
14 modification and to establishment by such health care facility
15 of such contracted portion which is subject to facility
16 licensing requirements, irrespective of the party responsible
17 for such action or attendant financial obligation.

18 No permit or exemption is required for a facility licensed
19 under the ID/DD Community Care Act prior to the reduction of
20 the number of beds at a facility. If there is a total reduction
21 of beds at a facility licensed under the ID/DD Community Care
22 Act, this is a discontinuation or closure of the facility.
23 However, if a facility licensed under the ID/DD Community Care
24 Act reduces the number of beds or discontinues the facility,
25 that facility must notify the Board as provided in Section 14.1
26 of this Act.

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

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

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

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

1 Assisted Living and Shared Housing Act or (ii) a conversion
2 project undertaken in accordance with Section 30 of the Older
3 Adult Services Act shall be excluded from any obligations under
4 this Act.

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

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

23 "Capital Expenditure" means an expenditure: (A) made by or
24 on behalf of a health care facility (as such a facility is
25 defined in this Act); and (B) which under generally accepted
26 accounting principles is not properly chargeable as an expense

1 of operation and maintenance, or is made to obtain by lease or
2 comparable arrangement any facility or part thereof or any
3 equipment for a facility or part; and which exceeds the capital
4 expenditure minimum.

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

24 "Capital expenditure minimum" means \$11,500,000 for
25 projects by hospital applicants, \$6,500,000 for applicants for
26 projects related to skilled and intermediate care long-term

1 care facilities licensed under the Nursing Home Care Act, and
2 \$3,000,000 for projects by all other applicants, which shall be
3 annually adjusted to reflect the increase in construction costs
4 due to inflation, for major medical equipment and for all other
5 capital expenditures.

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

25 "Areawide" means a major area of the State delineated on a
26 geographic, demographic, and functional basis for health

1 planning and for health service and having within it one or
2 more local areas for health planning and health service. The
3 term "region", as contrasted with the term "subregion", and the
4 word "area" may be used synonymously with the term "areawide".

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

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

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

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

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

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

19 "Out-of-state facility" means a person that is both (i)
20 licensed as a hospital or as an ambulatory surgery center under
21 the laws of another state or that qualifies as a hospital or an
22 ambulatory surgery center under regulations adopted pursuant
23 to the Social Security Act and (ii) not licensed under the
24 Ambulatory Surgical Treatment Center Act, the Hospital
25 Licensing Act, or the Nursing Home Care Act. Affiliates of
26 out-of-state facilities shall be considered out-of-state

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

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

16 "Related person" means any person that: (i) is at least 50%
17 owned, directly or indirectly, by either the health care
18 facility or a person owning, directly or indirectly, at least
19 50% of the health care facility; or (ii) owns, directly or
20 indirectly, at least 50% of the health care facility.

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

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

1 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;
2 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-277, eff. 1-1-12;
3 revised 9-7-11.)

4 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

5 (Section scheduled to be repealed on December 31, 2019)

6 Sec. 13. Investigation of applications for permits and
7 certificates of recognition. The Agency or the State Board
8 shall make or cause to be made such investigations as it or the
9 State Board deems necessary in connection with an application
10 for a permit or an application for a certificate of
11 recognition, or in connection with a determination of whether
12 or not construction or modification which has been commenced is
13 in accord with the permit issued by the State Board or whether
14 construction or modification has been commenced without a
15 permit having been obtained. The State Board may issue
16 subpoenas duces tecum requiring the production of records and
17 may administer oaths to such witnesses.

18 Any circuit court of this State, upon the application of
19 the State Board or upon the application of any party to such
20 proceedings, may, in its discretion, compel the attendance of
21 witnesses, the production of books, papers, records, or
22 memoranda and the giving of testimony before the State Board,
23 by a proceeding as for contempt, or otherwise, in the same
24 manner as production of evidence may be compelled before the
25 court.

1 The State Board shall require all health facilities
2 operating in this State to provide such reasonable reports at
3 such times and containing such information as is needed by it
4 to carry out the purposes and provisions of this Act. Prior to
5 collecting information from health facilities, the State Board
6 shall make reasonable efforts through a public process to
7 consult with health facilities and associations that represent
8 them to determine whether data and information requests will
9 result in useful information for health planning, whether
10 sufficient information is available from other sources, and
11 whether data requested is routinely collected by health
12 facilities and is available without retrospective record
13 review. Data and information requests shall not impose undue
14 paperwork burdens on health care facilities and personnel.
15 Health facilities not complying with this requirement shall be
16 reported to licensing, accrediting, certifying, or payment
17 agencies as being in violation of State law. Health care
18 facilities and other parties at interest shall have reasonable
19 access, under rules established by the State Board, to all
20 planning information submitted in accord with this Act
21 pertaining to their area.

22 Among the reports to be required by the State Board are
23 facility questionnaires for health care facilities licensed
24 under the Ambulatory Surgical Treatment Center Act, the
25 Hospital Licensing Act, the Nursing Home Care Act, the ID/DD
26 Community Care Act, the Specialized Mental Health

1 Rehabilitation Act, or the End Stage Renal Disease Facility
2 Act. These questionnaires shall be conducted on an annual basis
3 and compiled by the Agency. For health care facilities licensed
4 under the Nursing Home Care Act or ~~the Specialized Mental~~
5 ~~Health Rehabilitation Act, or the ID/DD Community Care Act,~~
6 these reports shall include, but not be limited to, the
7 identification of specialty services provided by the facility
8 to patients, residents, and the community at large. Annual
9 reports for facilities licensed under the ID/DD Community Care
10 Act shall be different from the annual reports required of
11 other health care facilities and shall be specific to those
12 facilities licensed under the ID/DD Community Care Act. The
13 Health Facilities and Services Review Board shall consult with
14 associations representing facilities licensed under the ID/DD
15 Community Care Act when developing the information requested in
16 these annual reports. For health care facilities that contain
17 long term care beds, the reports shall also include the number
18 of staffed long term care beds, physical capacity for long term
19 care beds at the facility, and long term care beds available
20 for immediate occupancy. For purposes of this paragraph, "long
21 term care beds" means beds (i) licensed under the Nursing Home
22 Care Act, (ii) licensed under the ID/DD Community Care Act,
23 (iii) licensed under the Hospital Licensing Act, or (iv)
24 licensed under the Specialized Mental Health Rehabilitation
25 Act and certified as skilled nursing or nursing facility beds
26 under Medicaid or Medicare.

1 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,
2 eff. 1-1-12; revised 9-7-11.)

3 (20 ILCS 3960/14.1)

4 Sec. 14.1. Denial of permit; other sanctions.

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

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

12 (2) The establishment, construction, or modification
13 of a health care facility without a permit or in violation
14 of the terms of a permit.

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

17 (4) The failure, by any person subject to this Act, to
18 provide information requested by the State Board or Agency
19 within 30 days after a formal written request for the
20 information.

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

23 (a-5) For facilities licensed under the ID/DD Community
24 Care Act, no permit shall be denied on the basis of prior
25 operator history, other than for actions specified under item

1 (2), (4), or (5) of Section 3-117 of the ID/DD Community Care
2 Act. For facilities licensed under the Specialized Mental
3 Health Rehabilitation Act, no permit shall be denied on the
4 basis of prior operator history, other than for actions
5 specified under item (2), (4), or (5) of Section 3-117 of the
6 Specialized Mental Health Rehabilitation Act. For facilities
7 licensed under the Nursing Home Care Act, no permit shall be
8 denied on the basis of prior operator history, other than for:
9 (i) actions specified under item (2), (3), (4), (5), or (6) of
10 Section 3-117 of the Nursing Home Care Act; (ii) actions
11 specified under item (a)(6) of Section 3-119 of the Nursing
12 Home Care Act; or (iii) actions within the preceding 5 years
13 constituting a substantial and repeated failure to comply with
14 the Nursing Home Care Act or the rules and regulations adopted
15 by the Department under that Act. The State Board shall not
16 deny a permit on account of any action described in this
17 subsection (a-5) without also considering all such actions in
18 the light of all relevant information available to the State
19 Board, including whether the permit is sought to substantially
20 comply with a mandatory or voluntary plan of correction
21 associated with any action described in this subsection (a-5).

22 (b) Persons shall be subject to fines as follows:

23 (1) A permit holder who fails to comply with the
24 requirements of maintaining a valid permit shall be fined
25 an amount not to exceed 1% of the approved permit amount
26 plus an additional 1% of the approved permit amount for

1 each 30-day period, or fraction thereof, that the violation
2 continues.

3 (2) A permit holder who alters the scope of an approved
4 project or whose project costs exceed the allowable permit
5 amount without first obtaining approval from the State
6 Board shall be fined an amount not to exceed the sum of (i)
7 the lesser of \$25,000 or 2% of the approved permit amount
8 and (ii) in those cases where the approved permit amount is
9 exceeded by more than \$1,000,000, an additional \$20,000 for
10 each \$1,000,000, or fraction thereof, in excess of the
11 approved permit amount.

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

19 (4) A person who constructs, modifies, or establishes a
20 health care facility without first obtaining a permit shall
21 be fined an amount not to exceed \$25,000 plus an additional
22 \$25,000 for each 30-day period, or fraction thereof, that
23 the violation continues.

24 (5) A person who discontinues a health care facility or
25 a category of service without first obtaining a permit
26 shall be fined an amount not to exceed \$10,000 plus an

1 additional \$10,000 for each 30-day period, or fraction
2 thereof, that the violation continues. For purposes of this
3 subparagraph (5), facilities licensed under the Nursing
4 Home Care Act or the ID/DD Community Care Act, with the
5 exceptions of facilities operated by a county or Illinois
6 Veterans Homes, are exempt from this permit requirement.
7 However, facilities licensed under the Nursing Home Care
8 Act or the ID/DD Community Care Act must comply with
9 Section 3-423 of the Nursing Home Care Act or Section 3-423
10 of the ID/DD Community Care Act and must provide the Board
11 and the Department of Human Services with 30 days' ~~30-days'~~
12 written notice of its intent to close. Facilities licensed
13 under the ID/DD Community Care Act also must provide the
14 Board and the Department of Human Services with 30 days'
15 written notice of its intent to reduce the number of beds
16 for a facility.

17 (6) A person subject to this Act who fails to provide
18 information requested by the State Board or Agency within
19 30 days of a formal written request shall be fined an
20 amount not to exceed \$1,000 plus an additional \$1,000 for
21 each 30-day period, or fraction thereof, that the
22 information is not received by the State Board or Agency.

23 (c) Before imposing any fine authorized under this Section,
24 the State Board shall afford the person or permit holder, as
25 the case may be, an appearance before the State Board and an
26 opportunity for a hearing before a hearing officer appointed by

1 the State Board. The hearing shall be conducted in accordance
2 with Section 10.

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

6 (Source: P.A. 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10;
7 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-7-11.)

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