



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0040

Introduced 1/27/2011, by Sen. Susan Garrett

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/4	from Ch. 111 1/2, par. 1154
20 ILCS 3960/5	from Ch. 111 1/2, par. 1155
20 ILCS 3960/6	from Ch. 111 1/2, par. 1156
20 ILCS 3960/6.2 new	
20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
20 ILCS 3960/14.1	

Amends the Illinois Health Facilities Planning Act. Sets forth the requirements for the review of a permit application to establish, construct, or modify a health care facility. Provides that the Health Facilities and Services Review Board shall afford an opportunity for a public hearing concerning a permit application. Sets forth the requirements for post-permit reports. Extends the deadline for the Health Facilities and Services Review Board to establish certain rules concerning long-term care to September 30, 2011. Provides that a permit holder who fails to comply with certain post-permit and reporting requirements shall be fined an amount not to exceed \$10,000 plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. Makes other changes.

LRB097 05313 RLJ 45368 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 4, 5, 6, 12, and 14.1 and adding
6 Section 6.2 and as follows:

7 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

8 (Section scheduled to be repealed on December 31, 2019)

9 Sec. 4. Health Facilities and Services Review Board;
10 membership; appointment; term; compensation; quorum.
11 Notwithstanding any other provision in this Section, members of
12 the State Board holding office on the day before the effective
13 date of this amendatory Act of the 96th General Assembly shall
14 retain their authority.

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

1 (b) Beginning March 1, 2010, the State Board shall consist
2 of 9 voting members. All members shall be residents of Illinois
3 and at least 4 shall reside outside the Chicago Metropolitan
4 Statistical Area. Consideration shall be given to potential
5 appointees who reflect the ethnic and cultural diversity of the
6 State. Neither Board members nor Board staff shall be convicted
7 felons or have 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. A spouse, parent, sibling, or child
16 ~~Spouses or other members of the immediate family~~ of a ~~the~~ Board
17 member cannot be an employee, agent, or under contract with
18 services or facilities subject to the Act. Prior to appointment
19 and in the course of service on the Board, members of the Board
20 shall disclose the employment or other financial interest of
21 any other relative of the member, if known, in service or
22 facilities subject to the Act. Members of the Board shall
23 declare any conflict of interest that may exist with respect to
24 the status of those relatives and recuse themselves from voting
25 on any issue for which a conflict of interest is declared. No
26 person shall be appointed or continue to serve as a member of

1 the State Board who is, or whose spouse, parent, sibling, or
2 child is, a member of the Board of Directors of, has a
3 financial interest in, or has a business relationship with a
4 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. Prior to March 1, 2010, the
15 Health Facilities Planning Board shall establish a plan to
16 transition its powers and duties to the Health Facilities and
17 Services Review Board.

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

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

26 (d) Of those 9 members initially appointed by the Governor

1 following the effective date of this amendatory Act of the 96th
2 General Assembly, 3 shall serve for terms expiring July 1,
3 2011, 3 shall serve for terms expiring July 1, 2012, and 3
4 shall serve for terms expiring July 1, 2013. Thereafter, each
5 appointed member shall hold office for a term of 3 years,
6 provided that any member appointed to fill a vacancy occurring
7 prior to the expiration of the term for which his or her
8 predecessor was appointed shall be appointed for the remainder
9 of such term and the term of office of each successor shall
10 commence on July 1 of the year in which his predecessor's term
11 expires. Each member appointed after the effective date of this
12 amendatory Act of the 96th General Assembly shall hold office
13 until his or her successor is appointed and qualified. The
14 Governor may reappoint a member for additional terms, but no
15 member shall serve more than 3 terms, subject to review and
16 re-approval every 3 years.

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

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

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

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

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

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

21 (j) A State Board member shall disqualify himself or
22 herself from the consideration of any application for a permit
23 or exemption in which the State Board member or the State Board
24 member's spouse, parent, sibling, or child: (i) has an economic
25 interest in the matter; or (ii) is employed by, serves as a
26 consultant for, or is a member of the governing board of the

1 applicant or a party opposing the application.

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

4 (Source: P.A. 95-331, eff. 8-21-07; 96-31, eff. 6-30-09.)

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

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

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

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

24 (a) requires a total capital expenditure in excess of
25 the capital expenditure minimum; or

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

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

10 A permit shall be valid only for the defined construction
11 or modifications, site, amount and person named in the
12 application for such permit and shall not be transferable or
13 assignable. A permit shall be valid until such time as the
14 project has been completed, provided that (a) obligation of the
15 project occurs within 12 months following issuance of the
16 permit except for major construction projects such obligation
17 must occur within 18 months following issuance of the permit;
18 and (b) the project commences and proceeds to completion with
19 due diligence by the completion date or extension date approved
20 by the Board.

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

1 To monitor progress toward project commencement and
2 completion, routine post-permit reports shall be limited to
3 annual progress reports and the final completion and cost
4 report.

5 The Certificate of Need process required under this Act is
6 designed to restrain rising health care costs by preventing
7 unnecessary construction or modification of health care
8 facilities. The Board must assure that the establishment,
9 construction, or modification of a health care facility or the
10 acquisition of major medical equipment is consistent with the
11 public interest and that the proposed project is consistent
12 with the orderly and economic development or acquisition of
13 those facilities and equipment and is in accord with the
14 standards, criteria, or plans of need adopted and approved by
15 the Board. Board decisions regarding the construction of health
16 care facilities must consider capacity, quality, value, and
17 equity. Projects may deviate from the costs, fees, and expenses
18 provided in their project cost information for the project's
19 cost components, provided that the final total project cost
20 does not exceed the approved permit amount.

21 Major construction projects, for the purposes of this Act,
22 shall include but are not limited to: projects for the
23 construction of new buildings; additions to existing
24 facilities; modernization projects whose cost is in excess of
25 \$1,000,000 or 10% of the facilities' operating revenue,
26 whichever is less; and such other projects as the State Board

1 shall define and prescribe pursuant to this Act.

2 The State Board may extend the obligation period upon a
3 showing of good cause by the permit holder. Permits for
4 projects that have not been obligated within the prescribed
5 obligation period shall expire on the last day of that period.

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

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

15 (Source: P.A. 96-31, eff. 6-30-09.)

16 (20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

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

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

20 (a) An application for a permit or exemption shall be made
21 to the State Board upon forms provided by the State Board. This
22 application shall contain such information as the State Board
23 deems necessary. The State Board shall not require an applicant
24 to file a Letter of Intent before an application is filed. Such
25 application shall include affirmative evidence on which the

1 State Board or Chairman may make its decision on the approval
2 or denial of the permit or exemption.

3 (b) The State Board shall establish by regulation the
4 procedures and requirements regarding issuance of exemptions.
5 An exemption shall be approved when information required by the
6 Board by rule is submitted. Projects eligible for an exemption,
7 rather than a permit, include, but are not limited to, change
8 of ownership of a health care facility. For a change of
9 ownership of a health care facility between related persons,
10 the State Board shall provide by rule for an expedited process
11 for obtaining an exemption. In connection with a change of
12 ownership, the State Board may approve the transfer of an
13 existing permit without regard to whether the permit to be
14 transferred has yet been obligated, except for permits
15 establishing a new facility or a new category of service.

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

18 (c-5) Any written review or findings of the Board staff or
19 any other reviewing organization under Section 8 concerning an
20 application for a permit must be made available to the public
21 at least 14 calendar days before the meeting of the State Board
22 at which the review or findings are considered. The applicant
23 and members of the public may submit, to the State Board,
24 written responses regarding the facts set forth in the review
25 or findings of the Board staff or reviewing organization.
26 Members of the public shall have until 10 days before the

1 meeting of the State Board to submit any written response
2 concerning the Board staff's written review or findings at
3 ~~least 10 days before the meeting of the State Board.~~ The Board
4 staff may revise any findings to address corrections of factual
5 errors cited in the public response. At the meeting, the State
6 Board may, in its discretion, permit the submission of other
7 additional written materials.

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

1 of need adopted and approved pursuant to the provisions of
2 Section 12 of this Act.

3 (Source: P.A. 95-237, eff. 1-1-08; 96-31, eff. 6-30-09.)

4 (20 ILCS 3960/6.2 new)

5 Sec. 6.2. Review of permits. Upon receipt of an application
6 for a permit to establish, construct, or modify a health care
7 facility, the State Board staff shall notify the applicant in
8 writing within 10 working days either that the application is
9 or is not complete. If the application is complete, the State
10 Board staff shall notify the applicant of the beginning of the
11 review process. If the application is not complete, the Board
12 staff shall explain within the 10-day period why the
13 application is incomplete.

14 The State Board staff shall afford a reasonable amount of
15 time as established by the State Board, but not to exceed 120
16 days, for the review of the application. The 120-day period
17 begins on the day the application is found to be substantially
18 complete, as that term is defined by the State Board. During
19 the 120-day period, the applicant may request an extension. An
20 applicant may modify the application at any time before a final
21 administrative decision has been made on the application. The
22 State Board shall prescribe and provide the forms upon which
23 the review and findings of the State Board staff shall be made.
24 The State Board staff shall submit its review and findings to
25 the State Board for its approval or denial of the permit.

1 When an application for a permit is initially reviewed by
2 State Board staff, as provided in this Section, the State Board
3 shall afford an opportunity for a public hearing within a
4 reasonable amount of time after receipt of the complete
5 application, but not to exceed 90 days after receipt of the
6 complete application. Notice of the hearing shall be made
7 promptly by certified mail to the applicant and, within 10 days
8 before the hearing, by publication in a newspaper of general
9 circulation in the area or community to be affected. The
10 hearing shall be held in the area or community in which the
11 proposed project is to be located, and shall be for the purpose
12 of allowing the applicant and any interested person to present
13 public testimony concerning the approval, denial, renewal, or
14 revocation of the permit. All interested persons attending the
15 hearing shall be given a reasonable opportunity to present
16 their views or arguments in writing or orally, and a record of
17 all of the testimony shall accompany any findings of the State
18 Board staff. The State Board shall adopt reasonable rules and
19 regulations governing the procedure and conduct of the
20 hearings.

21 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

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

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

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

14 (3) (Blank).

15 (4) Develop criteria and standards for health care
16 facilities planning, conduct statewide inventories of health
17 care facilities, maintain an updated inventory on the Board's
18 web site reflecting the most recent bed and service changes and
19 updated need determinations when new census data become
20 available or new need formulae are adopted, and develop health
21 care facility plans which shall be utilized in the review of
22 applications for permit under this Act. Such health facility
23 plans shall be coordinated by the Board with pertinent State
24 Plans. Inventories pursuant to this Section of skilled or
25 intermediate care facilities licensed under the Nursing Home
26 Care Act, skilled or intermediate care facilities licensed

1 under the MR/DD Community Care Act, or nursing homes licensed
2 under the Hospital Licensing Act shall be conducted on an
3 annual basis no later than July 1 of each year and shall
4 include among the information requested a list of all services
5 provided by a facility to its residents and to the community at
6 large and differentiate between active and inactive beds.

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

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

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

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

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

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

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

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

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

26 The health care facility plans which are developed and

1 adopted in accordance with this Section shall form the basis
2 for the plan of the State to deal most effectively with
3 statewide health needs in regard to health care facilities.

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

8 (6) Solicit, accept, hold and administer on behalf of the
9 State any grants or bequests of money, securities or property
10 for use by the State Board or Center for Comprehensive Health
11 Planning in the administration of this Act; and enter into
12 contracts consistent with the appropriations for purposes
13 enumerated in this Act.

14 (7) The State Board shall prescribe procedures for review,
15 standards, and criteria which shall be utilized to make
16 periodic reviews and determinations of the appropriateness of
17 any existing health services being rendered by health care
18 facilities subject to the Act. The State Board shall consider
19 recommendations of the Board in making its determinations.

20 (8) Prescribe, in consultation with the Center for
21 Comprehensive Health Planning, rules, regulations, standards,
22 and criteria for the conduct of an expeditious review of
23 applications for permits for projects of construction or
24 modification of a health care facility, which projects are
25 classified as emergency, substantive, or non-substantive in
26 nature.

1 Six months after June 30, 2009 (the effective date of
2 Public Act 96-31), substantive projects shall include no more
3 than the following:

4 (a) Projects to construct (1) a new or replacement
5 facility located on a new site or (2) a replacement
6 facility located on the same site as the original facility
7 and the cost of the replacement facility exceeds the
8 capital expenditure minimum;

9 (b) Projects proposing a (1) new service or (2)
10 discontinuation of a service, which shall be reviewed by
11 the Board within 60 days; or

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

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

24 Such rules shall not abridge the right of the Center for
25 Comprehensive Health Planning to make recommendations on the
26 classification and approval of projects, nor shall such rules

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

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

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

18 (11) Issue written decisions upon request of the applicant
19 or an adversely affected party to the Board within 30 days of
20 the meeting in which a final decision has been made. A "final
21 decision" for purposes of this Act is the decision to approve
22 or deny an application, or take other actions permitted under
23 this Act, at the time and date of the meeting that such action
24 is scheduled by the Board. The staff of the State Board shall
25 prepare a written copy of the final decision and the State
26 Board shall approve a final copy for inclusion in the formal

1 record.

2 (12) Require at least one of its members to participate in
3 any public hearing, after the appointment of a majority of the
4 ~~the 9~~ members to the Board.

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

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

10 (15) Establish a separate set of rules and guidelines for
11 long-term care that recognizes that nursing homes are a
12 different business line and service model from other regulated
13 facilities. An open and transparent process shall be developed
14 that considers the following: how skilled nursing fits in the
15 continuum of care with other care providers, modernization of
16 nursing homes, establishment of more private rooms,
17 development of alternative services, and current trends in
18 long-term care services. The Chairman of the Board shall
19 appoint a permanent Health Services Review Board Long-term Care
20 Facility Advisory Subcommittee that shall develop and
21 recommend to the Board the rules to be established by the Board
22 under this paragraph (15). The Subcommittee shall also provide
23 continuous review and commentary on policies and procedures
24 relative to long-term care and the review of related projects.
25 In consultation with other experts from the health field of
26 long-term care, the Board and the Subcommittee shall study new

1 approaches to the current bed need formula and Health Service
2 Area boundaries to encourage flexibility and innovation in
3 design models reflective of the changing long-term care
4 marketplace and consumer preferences. The Board shall file the
5 proposed related administrative rules for the separate rules
6 and guidelines for long-term care required by this paragraph
7 (15) by no later than September 30, 2011 ~~1, 2010~~. The
8 Subcommittee shall be provided a reasonable and timely
9 opportunity to review and comment on any review, revision, or
10 updating of the criteria, standards, procedures, and rules used
11 to evaluate project applications as provided under Section 12.3
12 of this Act prior to approval by the Board and promulgation of
13 related rules.

14 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;
15 96-1000, eff. 7-2-10.)

16 (20 ILCS 3960/14.1)

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

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

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

25 (2) The establishment, construction, or modification

1 of a health care facility without a permit or in violation
2 of the terms of a permit.

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

5 (4) The failure, by any person subject to this Act, to
6 provide information requested by the State Board or Agency
7 within 30 days after a formal written request for the
8 information.

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

11 (a-5) For facilities licensed under the MR/DD Community
12 Care Act, no permit shall be denied on the basis of prior
13 operator history, other than for actions specified under item
14 (2), (4), or (5) of Section 3-117 of the MR/DD Community Care
15 Act. For facilities licensed under the Nursing Home Care Act,
16 no permit shall be denied on the basis of prior operator
17 history, other than for: (i) actions specified under item (2),
18 (3), (4), (5), or (6) of Section 3-117 of the Nursing Home Care
19 Act; (ii) actions specified under item (a)(6) of Section 3-119
20 of the Nursing Home Care Act; or (iii) actions within the
21 preceding 5 years constituting a substantial and repeated
22 failure to comply with the Nursing Home Care Act or the rules
23 and regulations adopted by the Department under that Act. The
24 State Board shall not deny a permit on account of any action
25 described in this subsection (a-5) without also considering all
26 such actions in the light of all relevant information available

1 to the State Board, including whether the permit is sought to
2 substantially comply with a mandatory or voluntary plan of
3 correction associated with any action described in this
4 subsection (a-5).

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

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

12 (2) A permit holder who alters the scope of an approved
13 project or whose project costs exceed the allowable permit
14 amount without first obtaining approval from the State
15 Board shall be fined an amount not to exceed the sum of (i)
16 the lesser of \$25,000 or 2% of the approved permit amount
17 and (ii) in those cases where the approved permit amount is
18 exceeded by more than \$1,000,000, an additional \$20,000 for
19 each \$1,000,000, or fraction thereof, in excess of the
20 approved permit amount.

21 (2.5) A permit holder who fails to comply with the
22 post-permit and reporting requirements set forth in
23 Section 5 shall be fined an amount not to exceed \$10,000
24 plus an additional \$10,000 for each 30-day period, or
25 fraction thereof, that the violation continues. This fine
26 shall continue to accrue until the date that (i) the

1 post-permit requirements are met and the post-permit
2 reports are received by the State Board or (ii) the matter
3 is referred by the State Board to the State Board's legal
4 counsel. The accrued fine is not waived by the permit
5 holder submitting the required information and reports
6 after the expiration of the required timeframes set forth
7 in Section 5.

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

15 (4) A person who constructs, modifies, or establishes a
16 health care facility without first obtaining a permit shall
17 be fined an amount not to exceed \$25,000 plus an additional
18 \$25,000 for each 30-day period, or fraction thereof, that
19 the violation continues.

20 (5) A person who discontinues a health care facility or
21 a category of service without first obtaining a permit
22 shall be fined an amount not to exceed \$10,000 plus an
23 additional \$10,000 for each 30-day period, or fraction
24 thereof, that the violation continues. For purposes of this
25 subparagraph (5), facilities licensed under the Nursing
26 Home Care Act or the MR/DD Community Care Act, with the

1 exceptions of facilities operated by a county or Illinois
2 Veterans Homes, are exempt from this permit requirement.
3 However, facilities licensed under the Nursing Home Care
4 Act or the MR/DD Community Care Act must comply with
5 Section 3-423 of the Nursing Home Care Act or Section 3-423
6 of the MR/DD Community Care Act and must provide the Board
7 with 30-days' written notice of its intent to close.

8 (6) A person subject to this Act who fails to provide
9 information requested by the State Board or Agency within
10 30 days of a formal written request shall be fined an
11 amount not to exceed \$1,000 plus an additional \$1,000 for
12 each 30-day period, or fraction thereof, that the
13 information is not received by the State Board or Agency.

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

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

23 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10;
24 96-1372, eff. 7-29-10.)