



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2934

Introduced 2/1/2012, by Sen. Susan Garrett

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Health Facilities Planning Act. Provides that members of the Health Facilities and Services Review Board shall receive compensation for duties related to all attended, scheduled meetings of the full Board. Provides that the Chairman of the Board shall receive additional compensation for duties specific to the Chairmanship. Sets forth the requirements for the review of a permit application to establish, construct, or modify a health care facility. Sets forth the requirements for post-permit reports. Provides that a person whose application for a permit has been denied or whose permit has been revoked shall be afforded an opportunity for a hearing before an administrative law judge (now, a hearing officer) appointed by the Chairman of the Board (now, the Director of the Illinois Department of Public Health). Provides that a permit holder must submit the final completion and cost report within 90 days after the approved project completion date and submit annual progress reports. Provides that annual progress reports shall include information regarding the committed funds expended toward the approved project. Extends the deadline for the 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. Effective immediately.

LRB097 18443 PJG 63670 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, 10, 12, 12.5, and 14.1
6 and adding Section 6.2 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8 (Section scheduled to be repealed on December 31, 2019)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. On and after
26 the effective date of this amendatory Act of the 97th General

1 Assembly, Board members shall receive compensation for duties
2 related to all attended, scheduled meetings of the full Board,
3 at a rate of \$4,500 per meeting (approximately 8 meetings per
4 year). Participation at public hearings, committee meetings,
5 and meetings with staff, as well as review time for
6 applications, shall not be compensated separately.

7 (f) The Governor shall designate one of the members to
8 serve as the Chairman of the Board, who shall be a person with
9 expertise in health care delivery system planning, finance or
10 management of health care facilities that are regulated under
11 the Act. The Chairman shall annually review Board member
12 performance and shall report the attendance record of each
13 Board member to the General Assembly. The Chairman shall
14 receive additional compensation, at a rate of \$30,000 per year,
15 for duties specific to the Chairmanship. The Chairman shall
16 also receive compensation under subsection (e) for all
17 attended, scheduled meetings of the full Board.

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

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

25 (i) Five members of the State Board shall constitute a
26 quorum. The affirmative vote of 5 of the members of the State

1 Board shall be necessary for any action requiring a vote to be
2 taken by the State Board. A vacancy in the membership of the
3 State Board shall not impair the right of a quorum to exercise
4 all the rights and perform all the duties of the State Board as
5 provided by this Act.

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

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

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

16 (20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

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

18 Sec. 5. Construction, modification, or establishment of
19 health care facilities or acquisition of major medical
20 equipment; permits or exemptions. No person shall construct,
21 modify or establish a health care facility or acquire major
22 medical equipment without first obtaining a permit or exemption
23 from the State Board. The State Board shall not delegate to the
24 staff of the State Board or any other person or entity the
25 authority to grant permits or exemptions whenever the staff or

1 other person or entity would be required to exercise any
2 discretion affecting the decision to grant a permit or
3 exemption. The State Board may, by rule, delegate authority to
4 the Chairman to grant permits or exemptions when applications
5 meet all of the State Board's review criteria and are
6 unopposed.

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

10 (a) requires a total capital expenditure in excess of
11 the capital expenditure minimum; or

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

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

21 A permit shall be valid only for the defined construction
22 or modifications, site, amount and person named in the
23 application for such permit and shall not be transferable or
24 assignable. A permit shall be valid until such time as the
25 project has been completed, provided that ~~(a) obligation of the~~
26 ~~project occurs within 12 months following issuance of the~~

1 ~~permit except for major construction projects such obligation~~
2 ~~must occur within 18 months following issuance of the permit;~~
3 ~~and (b) the project commences and proceeds to completion with~~
4 ~~due diligence by the completion date or extension date approved~~
5 ~~by the Board.~~

6 A permit holder must do the following: (i) submit the final
7 completion and cost report for the project within 90 days after
8 the approved project completion date or extension date and (ii)
9 submit annual progress reports no earlier than 30 days before
10 and no later than 30 days after each anniversary date of the
11 Board's approval of the permit until the project is completed.
12 To maintain a valid permit and to monitor progress toward
13 project commencement and completion, routine post-permit
14 reports shall be limited to annual progress reports and the
15 final completion and cost report. Annual progress reports shall
16 include information regarding the committed funds expended
17 toward the approved project. If the project is not completed in
18 one year, then, by the second annual report, the permit holder
19 shall expend 33% or more of the total project cost or shall
20 make a commitment to expend 33% or more of the total project
21 cost by signed contracts or other legal means, and the report
22 shall contain information regarding those expenditures or
23 commitments. If the project is to be completed in one year,
24 then the first annual report shall contain the expenditure
25 commitment information for the total project cost. The State
26 Board may extend the expenditure commitment period after

1 considering a permit holder's showing of good cause and request
2 for additional time to complete the project.

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

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, upon request by the applicant or an interested person,
4 afford an opportunity for a public hearing within a reasonable
5 amount of time after receipt of the complete application, but
6 not to exceed 90 days after receipt of the complete
7 application. Notice of the hearing shall be made promptly, not
8 less than 10 days before the hearing, by certified mail to the
9 applicant and, not less than 10 days before the hearing, by
10 publication in a newspaper of general circulation in the area
11 or community to be affected. The hearing shall be held in the
12 area or community in which the proposed project is to be
13 located and shall be for the purpose of allowing the applicant
14 and any interested person to present public testimony
15 concerning the approval, denial, renewal, or revocation of the
16 permit. All interested persons attending the hearing shall be
17 given a reasonable opportunity to present their views or
18 arguments in writing or orally, and a record of all of the
19 testimony shall accompany any findings of the State Board
20 staff. Notwithstanding subsection (g) of Section 2.06 of the
21 Open Meetings Act, if an interested person has provided
22 testimony or comment at a public hearing related to a
23 particular application for a permit or certificate before the
24 Board, that interested person may not address the State Board
25 at a State Board meeting concerning that application. The State
26 Board shall adopt reasonable rules and regulations governing

1 the procedure and conduct of the hearings.

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

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

4 Sec. 10. Presenting information relevant to the approval of
5 a permit or certificate or in opposition to the denial of the
6 application; notice of outcome and review proceedings. When a
7 motion by the State Board, to approve an application for a
8 permit or a certificate of recognition, fails to pass, or when
9 a motion to deny an application for a permit or a certificate
10 of recognition is passed, the applicant or the holder of the
11 permit, as the case may be, and such other parties as the State
12 Board permits, will be given an opportunity to appear before
13 the State Board and present such information as may be relevant
14 to the approval of a permit or certificate or in opposition to
15 the denial of the application.

16 Subsequent to an appearance by the applicant before the
17 State Board or default of such opportunity to appear, a motion
18 by the State Board to approve an application for a permit or a
19 certificate of recognition which fails to pass or a motion to
20 deny an application for a permit or a certificate of
21 recognition which passes shall be considered denial of the
22 application for a permit or certificate of recognition, as the
23 case may be. Such action of denial or an action by the State
24 Board to revoke a permit or a certificate of recognition shall
25 be communicated to the applicant or holder of the permit or

1 certificate of recognition. Such person or organization shall
2 be afforded an opportunity for a hearing before an
3 administrative law judge ~~a hearing officer~~, who is appointed by
4 the Chairman of the State Board ~~Director~~. A written notice of a
5 request for such hearing shall be served upon the Chairman of
6 the State Board within 30 days following notification of the
7 decision of the State Board. ~~The State Board shall schedule a~~
8 ~~hearing, and the Director shall appoint a hearing officer~~
9 ~~within 30 days thereafter.~~ The administrative law judge ~~hearing~~
10 ~~officer~~ shall take actions necessary to ensure that the hearing
11 is completed within a reasonable period of time, but not to
12 exceed 120 ~~90~~ days, except for delays or continuances agreed to
13 by the person requesting the hearing. Following its
14 consideration of the report of the hearing, or upon default of
15 the party to the hearing, the State Board shall make its final
16 determination, specifying its findings and conclusions within
17 90 ~~45~~ days of receiving the written report of the hearing. A
18 copy of such determination shall be sent by certified mail or
19 served personally upon the party.

20 A full and complete record shall be kept of all
21 proceedings, including the notice of hearing, complaint, and
22 all other documents in the nature of pleadings, written motions
23 filed in the proceedings, and the report and orders of the
24 State Board or hearing officer. All testimony shall be reported
25 but need not be transcribed unless the decision is appealed in
26 accordance with the Administrative Review Law, as now or

1 hereafter amended. A copy or copies of the transcript may be
2 obtained by any interested party on payment of the cost of
3 preparing such copy or copies.

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

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

26 Any circuit court of this State upon the application of the

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

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

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

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

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

15 (1) Prescribe rules, regulations, standards, criteria,
16 procedures or reviews which may vary according to the purpose
17 for which a particular review is being conducted or the type of
18 project reviewed and which are required to carry out the
19 provisions and purposes of this Act. Policies and procedures of
20 the State Board shall take into consideration the priorities
21 and needs of medically underserved areas and other health care
22 services identified through the comprehensive health planning
23 process, giving special consideration to the impact of projects
24 on access to safety net services.

25 (2) Adopt procedures for public notice and hearing on all

1 proposed rules, regulations, standards, criteria, and plans
2 required to carry out the provisions of this Act.

3 (3) (Blank).

4 (4) Develop criteria and standards for health care
5 facilities planning, conduct statewide inventories of health
6 care facilities, maintain an updated inventory on the Board's
7 web site reflecting the most recent bed and service changes and
8 updated need determinations when new census data become
9 available or new need formulae are adopted, and develop health
10 care facility plans which shall be utilized in the review of
11 applications for permit under this Act. Such health facility
12 plans shall be coordinated by the Board with pertinent State
13 Plans. Inventories pursuant to this Section of skilled or
14 intermediate care facilities licensed under the Nursing Home
15 Care Act, skilled or intermediate care facilities licensed
16 under the ID/DD Community Care Act, facilities licensed under
17 the Specialized Mental Health Rehabilitation Act, or nursing
18 homes licensed under the Hospital Licensing Act shall be
19 conducted on an annual basis no later than July 1 of each year
20 and shall include among the information requested a list of all
21 services provided by a facility to its residents and to the
22 community at large and differentiate between active and
23 inactive beds.

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

26 (a) The size, composition and growth of the population

1 of the area to be served;

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

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

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

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

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

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

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

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

21 (5) Coordinate with the Center for Comprehensive Health
22 Planning and other state agencies having responsibilities
23 affecting health care facilities, including those of licensure
24 and cost reporting. Beginning no later than January 1, 2013,
25 the Department of Public Health shall produce a written annual
26 report to the Governor and the General Assembly regarding the

1 development of the Center for Comprehensive Health Planning.
2 The Chairman of the State Board and the State Board
3 Administrator shall also receive a copy of the annual report.

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

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

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

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

26 (a) Projects to construct (1) a new or replacement

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

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

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

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

22 Such rules shall not abridge the right of the Center for
23 Comprehensive Health Planning to make recommendations on the
24 classification and approval of projects, nor shall such rules
25 prevent the conduct of a public hearing upon the timely request
26 of an interested party. Such reviews shall not exceed 60 days

1 from the date the application is declared to be complete.

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

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

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

1 regulations that were taken into consideration by the Board
2 when coming to a final decision. If the State Board denies or
3 fails to approve an application for permit or certificate, the
4 State Board shall include in the final decision a detailed
5 explanation as to why the application was denied and identify
6 what specific criteria or standards the applicant did not
7 fulfill.

8 (12) Require at least one of its members to participate in
9 any public hearing, after the appointment of a majority of the
10 ~~9~~ members to the Board.

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

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

16 (15) Establish a separate set of rules and guidelines for
17 long-term care that recognizes that nursing homes are a
18 different business line and service model from other regulated
19 facilities. An open and transparent process shall be developed
20 that considers the following: how skilled nursing fits in the
21 continuum of care with other care providers, modernization of
22 nursing homes, establishment of more private rooms,
23 development of alternative services, and current trends in
24 long-term care services. The Chairman of the Board shall
25 appoint a permanent Health Services Review Board Long-term Care
26 Facility Advisory Subcommittee that shall develop and

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

20 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;
21 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;
22 revised 9-7-11.)

23 (20 ILCS 3960/12.5)

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

25 Sec. 12.5. Update existing bed inventory and associated bed

1 need projections. While the Task Force on Health Planning
2 Reform will make long-term recommendations related to the
3 method and formula for calculating the bed inventory and
4 associated bed need projections, there is a current need for
5 the bed inventory to be updated prior to the issuance of the
6 recommendations of the Task Force. Therefore, the State Agency
7 shall immediately update the existing bed inventory and
8 associated bed need projections required by Sections 12 and
9 12.3 of this Act, using the most recently published historical
10 utilization data, 5-year ~~10-year~~ population projections, and
11 an appropriate migration factor for the medical-surgical and
12 pediatric category of service which shall be no less than 50%.
13 The State Agency shall provide written documentation providing
14 the methodology and rationale used to determine the appropriate
15 migration factor.

16 (Source: P.A. 95-5, eff. 5-31-07.)

17 (20 ILCS 3960/14.1)

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

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

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

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

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

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

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

12 (a-5) For facilities licensed under the ID/DD Community
13 Care Act, no permit shall be denied on the basis of prior
14 operator history, other than for actions specified under item
15 (2), (4), or (5) of Section 3-117 of the ID/DD Community Care
16 Act. For facilities licensed under the Specialized Mental
17 Health Rehabilitation Act, no permit shall be denied on the
18 basis of prior operator history, other than for actions
19 specified under item (2), (4), or (5) of Section 3-117 of the
20 Specialized Mental Health Rehabilitation Act. For facilities
21 licensed under the Nursing Home Care Act, no permit shall be
22 denied on the basis of prior operator history, other than for:
23 (i) actions specified under item (2), (3), (4), (5), or (6) of
24 Section 3-117 of the Nursing Home Care Act; (ii) actions
25 specified under item (a)(6) of Section 3-119 of the Nursing
26 Home Care Act; or (iii) actions within the preceding 5 years

1 constituting a substantial and repeated failure to comply with
2 the Nursing Home Care Act or the rules and regulations adopted
3 by the Department under that Act. The State Board shall not
4 deny a permit on account of any action described in this
5 subsection (a-5) without also considering all such actions in
6 the light of all relevant information available to the State
7 Board, including whether the permit is sought to substantially
8 comply with a mandatory or voluntary plan of correction
9 associated with any action described in this subsection (a-5).

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

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

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

26 (2.5) A permit holder who fails to comply with the

1 post-permit and reporting requirements set forth in
2 Section 5 shall be fined an amount not to exceed \$10,000
3 plus an additional \$10,000 for each 30-day period, or
4 fraction thereof, that the violation continues. This fine
5 shall continue to accrue until the date that (i) the
6 post-permit requirements are met and the post-permit
7 reports are received by the State Board or (ii) the matter
8 is referred by the State Board to the State Board's legal
9 counsel. The accrued fine is not waived by the permit
10 holder submitting the required information and reports.
11 Beginning 6 months after the effective date of this
12 amendatory Act of the 97th General Assembly, the Board
13 shall notify, in writing, a permit holder of the due date
14 for the post-permit requirements no later than 30 days
15 before the due date for the requirements.

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

23 (4) A person who constructs, modifies, or establishes a
24 health care facility without first obtaining a permit shall
25 be fined an amount not to exceed \$25,000 plus an additional
26 \$25,000 for each 30-day period, or fraction thereof, that

1 the violation continues.

2 (5) A person who discontinues a health care facility or
3 a category of service without first obtaining a permit
4 shall be fined an amount not to exceed \$10,000 plus an
5 additional \$10,000 for each 30-day period, or fraction
6 thereof, that the violation continues. For purposes of this
7 subparagraph (5), facilities licensed under the Nursing
8 Home Care Act or the ID/DD Community Care Act, with the
9 exceptions of facilities operated by a county or Illinois
10 Veterans Homes, are exempt from this permit requirement.
11 However, facilities licensed under the Nursing Home Care
12 Act or the ID/DD Community Care Act must comply with
13 Section 3-423 of the Nursing Home Care Act or Section 3-423
14 of the ID/DD Community Care Act and must provide the Board
15 with 30-days' written notice of its intent to close.

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

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

1 with Section 10.

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

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

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

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 3960/4 from Ch. 111 1/2, par. 1154

4 20 ILCS 3960/5 from Ch. 111 1/2, par. 1155

5 20 ILCS 3960/6 from Ch. 111 1/2, par. 1156

6 20 ILCS 3960/6.2 new

7 20 ILCS 3960/10 from Ch. 111 1/2, par. 1160

8 20 ILCS 3960/12 from Ch. 111 1/2, par. 1162

9 20 ILCS 3960/12.5

10 20 ILCS 3960/14.1