



Sen. William Delgado

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LRB097 19971 PJG 66652 a

1 AMENDMENT TO SENATE BILL 3269

2 AMENDMENT NO. _____. Amend Senate Bill 3269 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Sections 4 and 12 as follows:

6 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

7 (Section scheduled to be repealed on December 31, 2019)

8 Sec. 4. Health Facilities and Services Review Board;
9 membership; appointment; term; compensation; quorum.

10 Notwithstanding any other provision in this Section, members of
11 the State Board holding office on the day before the effective
12 date of this amendatory Act of the 96th General Assembly shall
13 retain their authority.

14 (a) There is created the Health Facilities and Services
15 Review Board, which shall perform the functions described in
16 this Act. The Department shall provide operational support to

1 the Board, including the provision of office space, supplies,
2 and clerical, financial, and accounting services. The Board may
3 contract with experts related to specific health services or
4 facilities and create technical advisory panels to assist in
5 the development of criteria, standards, and procedures used in
6 the evaluation of applications for permit and exemption.

7 (b) Beginning September 1, 2012 ~~March 1, 2010~~, the State
8 Board shall consist of 11 ~~9~~ voting members. All members shall
9 be residents of Illinois and at least 5 ~~4~~ shall reside outside
10 the Chicago Metropolitan Statistical Area. Consideration shall
11 be given to potential appointees who reflect the ethnic and
12 cultural diversity of the State. Neither Board members nor
13 Board staff shall be convicted felons or have pled guilty to a
14 felony.

15 Each member shall have a reasonable knowledge of the
16 practice, procedures and principles of the health care delivery
17 system in Illinois, including at least 6 ~~5~~ members who shall be
18 knowledgeable about health care delivery systems, health
19 systems planning, finance, or the management of health care
20 facilities currently regulated under the Act. One member shall
21 be a representative of a non-profit health care consumer
22 advocacy organization. Spouses or other members of the
23 immediate family of the Board cannot be an employee, agent, or
24 under contract with services or facilities subject to the Act.
25 Prior to appointment and in the course of service on the Board,
26 members of the Board shall disclose the employment or other

1 financial interest of any other relative of the member, if
2 known, in service or facilities subject to the Act. Members of
3 the Board shall declare any conflict of interest that may exist
4 with respect to the status of those relatives and recuse
5 themselves from voting on any issue for which a conflict of
6 interest is declared. No person shall be appointed or continue
7 to serve as a member of the State Board who is, or whose
8 spouse, parent, or child is, a member of the Board of Directors
9 of, has a financial interest in, or has a business relationship
10 with a health care facility.

11 Notwithstanding any provision of this Section to the
12 contrary, the term of office of each member of the State Board
13 serving on the day before the effective date of this amendatory
14 Act of the 96th General Assembly is abolished on the date upon
15 which members of the 9-member Board, as established by this
16 amendatory Act of the 96th General Assembly, have been
17 appointed and can begin to take action as a Board. Members of
18 the State Board serving on the day before the effective date of
19 this amendatory Act of the 96th General Assembly may be
20 reappointed to the 9-member Board. Prior to March 1, 2010, the
21 Health Facilities Planning Board shall establish a plan to
22 transition its powers and duties to the Health Facilities and
23 Services Review Board.

24 (c) The State Board shall be appointed by the Governor,
25 with the advice and consent of the Senate. Not more than 6 ~~5~~ of
26 the appointments shall be of the same political party at the

1 time of the appointment.

2 The Secretary of Human Services, the Director of Healthcare
3 and Family Services, and the Director of Public Health, or
4 their designated representatives, shall serve as ex-officio,
5 non-voting members of the State Board.

6 (d) Of those 9 members initially appointed by the Governor
7 following the effective date of this amendatory Act of the 96th
8 General Assembly, 3 shall serve for terms expiring July 1,
9 2011, 3 shall serve for terms expiring July 1, 2012, and 3
10 shall serve for terms expiring July 1, 2013. The 2 members
11 initially appointed by the Governor pursuant to this amendatory
12 Act of the 97th General Assembly shall serve for terms expiring
13 July 1, 2015. Thereafter, each appointed member shall hold
14 office for a term of 3 years, provided that any member
15 appointed to fill a vacancy occurring prior to the expiration
16 of the term for which his or her predecessor was appointed
17 shall be appointed for the remainder of such term and the term
18 of office of each successor shall commence on July 1 of the
19 year in which his predecessor's term expires. Each member
20 appointed after the effective date of this amendatory Act of
21 the 96th General Assembly shall hold office until his or her
22 successor is appointed and qualified. The Governor may
23 reappoint a member for additional terms, but no member shall
24 serve more than 3 terms, subject to review and re-approval
25 every 3 years.

26 (e) State Board members, while serving on business of the

1 State Board, shall receive actual and necessary travel and
2 subsistence expenses while so serving away from their places of
3 residence. ~~Until March 1, 2010, a member of the State Board who~~
4 ~~experiences a significant financial hardship due to the loss of~~
5 ~~income on days of attendance at meetings or while otherwise~~
6 ~~engaged in the business of the State Board may be paid a~~
7 ~~hardship allowance, as determined by and subject to the~~
8 ~~approval of the Governor's Travel Control Board.~~

9 (f) The Governor shall designate one of the members to
10 serve as the Chairman of the Board, who shall be a person with
11 expertise in health care delivery system planning, finance or
12 management of health care facilities that are regulated under
13 the Act. The Chairman shall annually review Board member
14 performance and shall report the attendance record of each
15 Board member to the General Assembly.

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

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

23 (i) Six ~~Five~~ members of the State Board shall constitute a
24 quorum. The affirmative vote of 6 ~~5~~ of the members of the State
25 Board shall be necessary for any action requiring a vote to be
26 taken by the State Board. A vacancy in the membership of the

1 State Board shall not impair the right of a quorum to exercise
2 all the rights and perform all the duties of the State Board as
3 provided by this Act.

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

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

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

14 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

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

19 (1) Prescribe rules, regulations, standards, criteria,
20 procedures or reviews which may vary according to the purpose
21 for which a particular review is being conducted or the type of
22 project reviewed and which are required to carry out the
23 provisions and purposes of this Act. Policies and procedures of
24 the State Board shall take into consideration the priorities
25 and needs of medically underserved areas and other health care

1 services identified through the comprehensive health planning
2 process, giving special consideration to the impact of projects
3 on access to safety net services. Each rule, regulation,
4 standard, criteria, procedure, or review for the need of
5 facilities, services, or equipment shall be based on current
6 and reliable epidemiological evidence and shall not restrict
7 the availability of care from such facilities, services, or
8 equipment to less than the epidemiologically projected need for
9 each racial and ethnic group.

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

13 (3) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 nature.

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

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

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

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

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

25 Such rules shall not abridge the right of the Center for
26 Comprehensive Health Planning to make recommendations on the

1 classification and approval of projects, nor shall such rules
2 prevent the conduct of a public hearing upon the timely request
3 of an interested party. Such reviews shall not exceed 60 days
4 from the date the application is declared to be complete.

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

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

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

1 Board shall approve a final copy for inclusion in the formal
2 record. A written decision denying an application because of a
3 lack of need for the facility, service, or equipment but that
4 allegedly fails to be based upon the epidemiological evidence
5 required under paragraph (1) of this Section shall be decided
6 pursuant to the Code of Civil Procedure and shall be a final
7 decision for purposes of this Act. For such cases, a review of
8 a final decision of this Board under the Administrative Review
9 Law shall be a hearing de novo by the Circuit Court, at which
10 new evidence may be introduced.

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

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

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

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

1 long-term care services. The Chairman of the Board shall
2 appoint a permanent Health Services Review Board Long-term Care
3 Facility Advisory Subcommittee that shall develop and
4 recommend to the Board the rules to be established by the Board
5 under this paragraph (15). The Subcommittee shall also provide
6 continuous review and commentary on policies and procedures
7 relative to long-term care and the review of related projects.
8 In consultation with other experts from the health field of
9 long-term care, the Board and the Subcommittee shall study new
10 approaches to the current bed need formula and Health Service
11 Area boundaries to encourage flexibility and innovation in
12 design models reflective of the changing long-term care
13 marketplace and consumer preferences. The Board shall file the
14 proposed related administrative rules for the separate rules
15 and guidelines for long-term care required by this paragraph
16 (15) by September 1, 2010. The Subcommittee shall be provided a
17 reasonable and timely opportunity to review and comment on any
18 review, revision, or updating of the criteria, standards,
19 procedures, and rules used to evaluate project applications as
20 provided under Section 12.3 of this Act prior to approval by
21 the Board and promulgation of related rules.

22 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;
23 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;
24 revised 9-7-11.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law, except that the changes made to Section 4 of the
2 Illinois Health Facilities Planning Act take effect on
3 September 1, 2012 or upon becoming law, whichever is later.".