



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB3614

Introduced 2/10/2012, by Sen. John M. Sullivan

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3960/5  
20 ILCS 3960/12

from Ch. 111 1/2, par. 1155  
from Ch. 111 1/2, par. 1162

Amends the Illinois Health Facilities Planning Act. Provides that the Health Services Review Board Long-term Care Facility Advisory Subcommittee shall develop and recommend rules to establish a bed exchange program that, at a minimum, provides for the movement of beds between 2 facilities without prior approval of the Health Facilities and Services Review Board, regardless of whether the beds are currently licensed to the owner of the facility to which the beds are transferred or the facility purchases the licenses for the beds from a third party. Effective immediately.

LRB097 17689 PJG 62902 b

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 5 and 12 as follows:

6 (20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

7 (Section scheduled to be repealed on December 31, 2019)

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

22 A permit or exemption shall be obtained prior to the  
23 acquisition of major medical equipment or to the construction

1 or modification of a health care facility which:

2 (a) requires a total capital expenditure in excess of  
3 the capital expenditure minimum; or

4 (b) substantially changes the scope or changes the  
5 functional operation of the facility; or

6 (c) changes the bed capacity of a health care facility  
7 by increasing the total number of beds or by distributing  
8 beds among various categories of service or by relocating  
9 beds from one physical facility or site to another by more  
10 than 20 beds or more than 10% of total bed capacity as  
11 defined by the State Board, whichever is less, over a 2  
12 year period, except as provided in item (16) of Section 12.

13 A permit shall be valid only for the defined construction  
14 or modifications, site, amount and person named in the  
15 application for such permit and shall not be transferable or  
16 assignable. A permit shall be valid until such time as the  
17 project has been completed, provided that (a) obligation of the  
18 project occurs within 12 months following issuance of the  
19 permit except for major construction projects such obligation  
20 must occur within 18 months following issuance of the permit;  
21 and (b) the project commences and proceeds to completion with  
22 due diligence. To monitor progress toward project commencement  
23 and completion, routine post-permit reports shall be limited to  
24 annual progress reports and the final completion and cost  
25 report. Projects may deviate from the costs, fees, and expenses  
26 provided in their project cost information for the project's

1 cost components, provided that the final total project cost  
2 does not exceed the approved permit amount. Major construction  
3 projects, for the purposes of this Act, shall include but are  
4 not limited to: projects for the construction of new buildings;  
5 additions to existing facilities; modernization projects whose  
6 cost is in excess of \$1,000,000 or 10% of the facilities'  
7 operating revenue, whichever is less; and such other projects  
8 as the State Board shall define and prescribe pursuant to this  
9 Act. The State Board may extend the obligation period upon a  
10 showing of good cause by the permit holder. Permits for  
11 projects that have not been obligated within the prescribed  
12 obligation period shall expire on the last day of that period.

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

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

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

23 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

25 Sec. 12. Powers and duties of State Board. For purposes of

1 this Act, the State Board shall exercise the following powers  
2 and duties:

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

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

16 (3) (Blank).

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

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

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

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

15 (b) The number of existing and planned facilities  
16 offering similar programs;

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

18 (d) The availability of facilities which may serve as  
19 alternatives or substitutes;

20 (e) The availability of personnel necessary to the  
21 operation of the facility;

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

24 (g) The financial and economic feasibility of proposed  
25 construction or modification; and

26 (h) In the case of health care facilities established

1 by a religious body or denomination, the needs of the  
2 members of such religious body or denomination may be  
3 considered to be public need.

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

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

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

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

24 (8) Prescribe, in consultation with the Center for  
25 Comprehensive Health Planning, rules, regulations, standards,  
26 and criteria for the conduct of an expeditious review of

1 applications for permits for projects of construction or  
2 modification of a health care facility, which projects are  
3 classified as emergency, substantive, or non-substantive in  
4 nature.

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

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

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

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

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



1 Board.

2 Such rules shall not abridge the right of the Center for  
3 Comprehensive Health Planning to make recommendations on the  
4 classification and approval of projects, nor shall such rules  
5 prevent the conduct of a public hearing upon the timely request  
6 of an interested party. Such reviews shall not exceed 60 days  
7 from the date the application is declared to be complete.

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

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

22 (11) Issue written decisions upon request of the applicant  
23 or an adversely affected party to the Board within 30 days of  
24 the meeting in which a final decision has been made. A "final  
25 decision" for purposes of this Act is the decision to approve  
26 or deny an application, or take other actions permitted under

1 this Act, at the time and date of the meeting that such action  
2 is scheduled by the Board. The staff of the State Board shall  
3 prepare a written copy of the final decision and the State  
4 Board shall approve a final copy for inclusion in the formal  
5 record.

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

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

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

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

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

17 (16) Prescribe rules developed and recommended by the  
18 Subcommittee to establish a bed exchange program that, at a  
19 minimum, provides for the movement of beds between 2 facilities  
20 within a 30 mile radius of each other without the prior  
21 approval of the State Board, regardless of whether the beds are  
22 currently licensed to the owner of the facility to which the  
23 beds are transferred or the facility purchases the licenses for  
24 the beds from a third party.

25 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
26 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;

1 revised 9-7-11.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.