



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4518

by Rep. William Davis

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
20 ILCS 3960/4	from Ch. 111 1/2, par. 1154
20 ILCS 3960/8.5	
20 ILCS 3960/10	from Ch. 111 1/2, par. 1160
20 ILCS 3960/14.1	

Amends the Illinois Health Facilities Planning Act. Clarifies that health care facilities include hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof, whether or not they are licensed by the Department of Public Health. Provides that the Department of Public Health shall provide operational support to the Health Facilities and Services Review Board as agreed to in the Intergovernmental Agreement between the Department and the State Board. Provides that no later than 90 days after a discontinuation of a health facility or a discontinuation of a category of service, the applicant for a certificate of exemption must submit a statement to the State Board certifying that the discontinuation is complete. Provides that if a public hearing concerning change of ownership or discontinuation of a health facility or a category of service is held, all interested persons attending the hearing shall be given a reasonable opportunity to present their positions in writing or orally. Removes language concerning certificates of recognition. Removes language concerning the Specialized Mental Health Rehabilitation Act. Makes conforming changes.

LRB099 17095 RJF 41453 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 3, 4, 8.5, 10, and 14.1 as
6 follows:

7 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

8 (Section scheduled to be repealed on December 31, 2019)

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

10 "Health care facilities" means and includes the following
11 facilities, organizations, and related persons:

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

15 (2) An institution, place, building, or agency
16 required to be licensed pursuant to the Hospital Licensing
17 Act.

18 (3) Skilled and intermediate long term care facilities
19 licensed under the Nursing Home Care Act.

20 (A) If a demonstration project under the Nursing
21 Home Care Act applies for a certificate of need to
22 convert to a nursing facility, it shall meet the
23 licensure and certificate of need requirements in

1 effect as of the date of application.

2 (B) Except as provided in item (A) of this
3 subsection, this Act does not apply to facilities
4 granted waivers under Section 3-102.2 of the Nursing
5 Home Care Act.

6 (3.5) Skilled and intermediate care facilities
7 licensed under the ID/DD Community Care Act or the MC/DD
8 Act. No permit or exemption is required for a facility
9 licensed under the ID/DD Community Care Act or the MC/DD
10 Act prior to the reduction of the number of beds at a
11 facility. If there is a total reduction of beds at a
12 facility licensed under the ID/DD Community Care Act or the
13 MC/DD Act, this is a discontinuation or closure of the
14 facility. If a facility licensed under the ID/DD Community
15 Care Act or the MC/DD Act reduces the number of beds or
16 discontinues the facility, that facility must notify the
17 Board as provided in Section 14.1 of this Act.

18 (3.7) Facilities licensed under the Specialized Mental
19 Health Rehabilitation Act of 2013.

20 (4) Hospitals, nursing homes, ambulatory surgical
21 treatment centers, or kidney disease treatment centers
22 maintained by the State or any department or agency
23 thereof, whether or not licensed by the Department of
24 Public Health.

25 (5) Kidney disease treatment centers, including a
26 free-standing hemodialysis unit required to be licensed

1 under the End Stage Renal Disease Facility Act.

2 (A) This Act does not apply to a dialysis facility
3 that provides only dialysis training, support, and
4 related services to individuals with end stage renal
5 disease who have elected to receive home dialysis.

6 (B) This Act does not apply to a dialysis unit
7 located in a licensed nursing home that offers or
8 provides dialysis-related services to residents with
9 end stage renal disease who have elected to receive
10 home dialysis within the nursing home.

11 (C) The Board, however, may require dialysis
12 facilities and licensed nursing homes under items (A)
13 and (B) of this subsection to report statistical
14 information on a quarterly basis to the Board to be
15 used by the Board to conduct analyses on the need for
16 proposed kidney disease treatment centers.

17 (6) An institution, place, building, or room used for
18 the performance of outpatient surgical procedures that is
19 leased, owned, or operated by or on behalf of an
20 out-of-state facility.

21 (7) An institution, place, building, or room used for
22 provision of a health care category of service, including,
23 but not limited to, cardiac catheterization and open heart
24 surgery.

25 (8) An institution, place, building, or room housing
26 major medical equipment used in the direct clinical

1 diagnosis or treatment of patients, and whose project cost
2 is in excess of the capital expenditure minimum.

3 "Health care facilities" does not include the following
4 entities or facility transactions:

5 (1) Federally-owned facilities.

6 (2) Facilities used solely for healing by prayer or
7 spiritual means.

8 (3) An existing facility located on any campus facility
9 as defined in Section 5-5.8b of the Illinois Public Aid
10 Code, provided that the campus facility encompasses 30 or
11 more contiguous acres and that the new or renovated
12 facility is intended for use by a licensed residential
13 facility.

14 (4) Facilities licensed under the Supportive
15 Residences Licensing Act or the Assisted Living and Shared
16 Housing Act.

17 (5) Facilities designated as supportive living
18 facilities that are in good standing with the program
19 established under Section 5-5.01a of the Illinois Public
20 Aid Code.

21 (6) Facilities established and operating under the
22 Alternative Health Care Delivery Act as a children's
23 community-based health care center alternative health care
24 model demonstration program or as an Alzheimer's Disease
25 Management Center alternative health care model
26 demonstration program.

1 (7) The closure of an entity or a portion of an entity
2 licensed under the Nursing Home Care Act, the Specialized
3 Mental Health Rehabilitation Act of 2013, the ID/DD
4 Community Care Act, or the MC/DD Act, with the exception of
5 facilities operated by a county or Illinois Veterans Homes,
6 that elect to convert, in whole or in part, to an assisted
7 living or shared housing establishment licensed under the
8 Assisted Living and Shared Housing Act and with the
9 exception of a facility licensed under the Specialized
10 Mental Health Rehabilitation Act of 2013 in connection with
11 a proposal to close a facility and re-establish the
12 facility in another location.

13 (8) Any change of ownership of a health care facility
14 that is licensed under the Nursing Home Care Act, the
15 Specialized Mental Health Rehabilitation Act of 2013, the
16 ID/DD Community Care Act, or the MC/DD Act, with the
17 exception of facilities operated by a county or Illinois
18 Veterans Homes. Changes of ownership of facilities
19 licensed under the Nursing Home Care Act must meet the
20 requirements set forth in Sections 3-101 through 3-119 of
21 the Nursing Home Care Act.

22 With the exception of those health care facilities
23 specifically included in this Section, nothing in this Act
24 shall be intended to include facilities operated as a part of
25 the practice of a physician or other licensed health care
26 professional, whether practicing in his individual capacity or

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

18 "Person" means any one or more natural persons, legal
19 entities, governmental bodies other than federal, or any
20 combination thereof.

21 "Consumer" means any person other than a person (a) whose
22 major occupation currently involves or whose official capacity
23 within the last 12 months has involved the providing,
24 administering or financing of any type of health care facility,
25 (b) who is engaged in health research or the teaching of
26 health, (c) who has a material financial interest in any

1 activity which involves the providing, administering or
2 financing of any type of health care facility, or (d) who is or
3 ever has been a member of the immediate family of the person
4 defined by (a), (b), or (c).

5 "State Board" or "Board" means the Health Facilities and
6 Services Review Board.

7 "Construction or modification" means the establishment,
8 erection, building, alteration, reconstruction, modernization,
9 improvement, extension, discontinuation, change of ownership,
10 of or by a health care facility, or the purchase or acquisition
11 by or through a health care facility of equipment or service
12 for diagnostic or therapeutic purposes or for facility
13 administration or operation, or any capital expenditure made by
14 or on behalf of a health care facility which exceeds the
15 capital expenditure minimum; however, any capital expenditure
16 made by or on behalf of a health care facility for (i) the
17 construction or modification of a facility licensed under the
18 Assisted Living and Shared Housing Act or (ii) a conversion
19 project undertaken in accordance with Section 30 of the Older
20 Adult Services Act shall be excluded from any obligations under
21 this Act.

22 "Establish" means the construction of a health care
23 facility or the replacement of an existing facility on another
24 site or the initiation of a category of service.

25 "Major medical equipment" means medical equipment which is
26 used for the provision of medical and other health services and

1 which costs in excess of the capital expenditure minimum,
2 except that such term does not include medical equipment
3 acquired by or on behalf of a clinical laboratory to provide
4 clinical laboratory services if the clinical laboratory is
5 independent of a physician's office and a hospital and it has
6 been determined under Title XVIII of the Social Security Act to
7 meet the requirements of paragraphs (10) and (11) of Section
8 1861(s) of such Act. In determining whether medical equipment
9 has a value in excess of the capital expenditure minimum, the
10 value of studies, surveys, designs, plans, working drawings,
11 specifications, and other activities essential to the
12 acquisition of such equipment shall be included.

13 "Capital Expenditure" means an expenditure: (A) made by or
14 on behalf of a health care facility (as such a facility is
15 defined in this Act); and (B) which under generally accepted
16 accounting principles is not properly chargeable as an expense
17 of operation and maintenance, or is made to obtain by lease or
18 comparable arrangement any facility or part thereof or any
19 equipment for a facility or part; and which exceeds the capital
20 expenditure minimum.

21 For the purpose of this paragraph, the cost of any studies,
22 surveys, designs, plans, working drawings, specifications, and
23 other activities essential to the acquisition, improvement,
24 expansion, or replacement of any plant or equipment with
25 respect to which an expenditure is made shall be included in
26 determining if such expenditure exceeds the capital

1 expenditures minimum. Unless otherwise interdependent, or
2 submitted as one project by the applicant, components of
3 construction or modification undertaken by means of a single
4 construction contract or financed through the issuance of a
5 single debt instrument shall not be grouped together as one
6 project. Donations of equipment or facilities to a health care
7 facility which if acquired directly by such facility would be
8 subject to review under this Act shall be considered capital
9 expenditures, and a transfer of equipment or facilities for
10 less than fair market value shall be considered a capital
11 expenditure for purposes of this Act if a transfer of the
12 equipment or facilities at fair market value would be subject
13 to review.

14 "Capital expenditure minimum" means \$11,500,000 for
15 projects by hospital applicants, \$6,500,000 for applicants for
16 projects related to skilled and intermediate care long-term
17 care facilities licensed under the Nursing Home Care Act, and
18 \$3,000,000 for projects by all other applicants, which shall be
19 annually adjusted to reflect the increase in construction costs
20 due to inflation, for major medical equipment and for all other
21 capital expenditures.

22 "Non-clinical service area" means an area (i) for the
23 benefit of the patients, visitors, staff, or employees of a
24 health care facility and (ii) not directly related to the
25 diagnosis, treatment, or rehabilitation of persons receiving
26 services from the health care facility. "Non-clinical service

1 areas" include, but are not limited to, chapels; gift shops;
2 news stands; computer systems; tunnels, walkways, and
3 elevators; telephone systems; projects to comply with life
4 safety codes; educational facilities; student housing;
5 patient, employee, staff, and visitor dining areas;
6 administration and volunteer offices; modernization of
7 structural components (such as roof replacement and masonry
8 work); boiler repair or replacement; vehicle maintenance and
9 storage facilities; parking facilities; mechanical systems for
10 heating, ventilation, and air conditioning; loading docks; and
11 repair or replacement of carpeting, tile, wall coverings,
12 window coverings or treatments, or furniture. Solely for the
13 purpose of this definition, "non-clinical service area" does
14 not include health and fitness centers.

15 "Areawide" means a major area of the State delineated on a
16 geographic, demographic, and functional basis for health
17 planning and for health service and having within it one or
18 more local areas for health planning and health service. The
19 term "region", as contrasted with the term "subregion", and the
20 word "area" may be used synonymously with the term "areawide".

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

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

1 "Licensed health care professional" means a person
2 licensed to practice a health profession under pertinent
3 licensing statutes of the State of Illinois.

4 "Director" means the Director of the Illinois Department of
5 Public Health.

6 "Agency" or "Department" means the Illinois Department of
7 Public Health.

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

10 "Out-of-state facility" means a person that is both (i)
11 licensed as a hospital or as an ambulatory surgery center under
12 the laws of another state or that qualifies as a hospital or an
13 ambulatory surgery center under regulations adopted pursuant
14 to the Social Security Act and (ii) not licensed under the
15 Ambulatory Surgical Treatment Center Act, the Hospital
16 Licensing Act, or the Nursing Home Care Act. Affiliates of
17 out-of-state facilities shall be considered out-of-state
18 facilities. Affiliates of Illinois licensed health care
19 facilities 100% owned by an Illinois licensed health care
20 facility, its parent, or Illinois physicians licensed to
21 practice medicine in all its branches shall not be considered
22 out-of-state facilities. Nothing in this definition shall be
23 construed to include an office or any part of an office of a
24 physician licensed to practice medicine in all its branches in
25 Illinois that is not required to be licensed under the
26 Ambulatory Surgical Treatment Center Act.

1 "Change of ownership of a health care facility" means a
2 change in the person who has ownership or control of a health
3 care facility's physical plant and capital assets. A change in
4 ownership is indicated by the following transactions: sale,
5 transfer, acquisition, lease, change of sponsorship, or other
6 means of transferring control.

7 "Related person" means any person that: (i) is at least 50%
8 owned, directly or indirectly, by either the health care
9 facility or a person owning, directly or indirectly, at least
10 50% of the health care facility; or (ii) owns, directly or
11 indirectly, at least 50% of the health care facility.

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

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

18 "Category of service" means a grouping by generic class of
19 various types or levels of support functions, equipment, care,
20 or treatment provided to patients or residents, including, but
21 not limited to, classes such as medical-surgical, pediatrics,
22 or cardiac catheterization. A category of service may include
23 subcategories or levels of care that identify a particular
24 degree or type of care within the category of service. Nothing
25 in this definition shall be construed to include the practice
26 of a physician or other licensed health care professional while

1 functioning in an office providing for the care, diagnosis, or
2 treatment of patients. A category of service that is subject to
3 the Board's jurisdiction must be designated in rules adopted by
4 the Board.

5 "State Board Staff Report" means the document that sets
6 forth the review and findings of the State Board staff, as
7 prescribed by the State Board, regarding applications subject
8 to Board jurisdiction.

9 (Source: P.A. 98-414, eff. 1-1-14; 98-629, eff. 1-1-15; 98-651,
10 eff. 6-16-14; 98-1086, eff. 8-26-14; 99-78, eff. 7-20-15;
11 99-180, eff. 7-29-15.)

12 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

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

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

20 (a) There is created the Health Facilities and Services
21 Review Board, which shall perform the functions described in
22 this Act. The Department shall provide operational support to
23 the Board, including the provision of office space, supplies,
24 and clerical, financial, and accounting services, as agreed to
25 in the Intergovernmental Agreement between the Department and

1 the State Board. The Board may contract with experts related to
2 specific health services or facilities and create technical
3 advisory panels to assist in the development of criteria,
4 standards, and procedures used in the evaluation of
5 applications for permit and exemption.

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

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

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

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

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

26 The Secretary of Human Services, the Director of Healthcare

1 and Family Services, and the Director of Public Health, or
2 their designated representatives, shall serve as ex-officio,
3 non-voting members of the State Board.

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

21 (e) State Board members, while serving on business of the
22 State Board, shall receive actual and necessary travel and
23 subsistence expenses while so serving away from their places of
24 residence. Until March 1, 2010, a member of the State Board who
25 experiences a significant financial hardship due to the loss of
26 income on days of attendance at meetings or while otherwise

1 engaged in the business of the State Board may be paid a
2 hardship allowance, as determined by and subject to the
3 approval of the Governor's Travel Control Board.

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

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

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

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

25 (j) A State Board member shall disqualify himself or
26 herself from the consideration of any application for a permit

1 or exemption in which the State Board member or the State Board
2 member's spouse, parent, sibling, or child: (i) has an economic
3 interest in the matter; or (ii) is employed by, serves as a
4 consultant for, or is a member of the governing board of the
5 applicant or a party opposing the application.

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

8 (Source: P.A. 96-31, eff. 6-30-09; 97-1115, eff. 8-27-12.)

9 (20 ILCS 3960/8.5)

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

11 Sec. 8.5. Certificate of exemption for change of ownership
12 of a health care facility; discontinuation of a health care
13 facility or category of service; public notice and public
14 hearing.

15 (a) Upon a finding that an application for a change of
16 ownership is complete, the State Board shall publish a legal
17 notice on one day in a newspaper of general circulation in the
18 area or community to be affected and afford the public an
19 opportunity to request a hearing. If the application is for a
20 facility located in a Metropolitan Statistical Area, an
21 additional legal notice shall be published in a newspaper of
22 limited circulation, if one exists, in the area in which the
23 facility is located. If the newspaper of limited circulation is
24 published on a daily basis, the additional legal notice shall
25 be published on one day. The applicant shall pay the cost

1 incurred by the Board in publishing the change of ownership
2 notice in newspapers as required under this subsection. The
3 legal notice shall also be posted on the Health Facilities and
4 Services Review Board's web site and sent to the State
5 Representative and State Senator of the district in which the
6 health care facility is located. An application for change of
7 ownership of a hospital shall not be deemed complete without a
8 signed certification that for a period of 2 years after the
9 change of ownership transaction is effective, the hospital will
10 not adopt a charity care policy that is more restrictive than
11 the policy in effect during the year prior to the transaction.
12 An application for a change of ownership need not contain
13 signed transaction documents so long as it includes the
14 following key terms of the transaction: names and background of
15 the parties; structure of the transaction; the person who will
16 be the licensed or certified entity after the transaction; the
17 ownership or membership interests in such licensed or certified
18 entity both prior to and after the transaction; fair market
19 value of assets to be transferred; and the purchase price or
20 other form of consideration to be provided for those assets.
21 The issuance of the certificate of exemption shall be
22 contingent upon the applicant submitting a statement to the
23 Board within 90 days after the closing date of the transaction,
24 or such longer period as provided by the Board, certifying that
25 the change of ownership has been completed in accordance with
26 the key terms contained in the application. If such key terms

1 of the transaction change, a new application shall be required.

2 Where a change of ownership is among related persons, and
3 there are no other changes being proposed at the health care
4 facility that would otherwise require a permit or exemption
5 under this Act, the applicant shall submit an application
6 consisting of a standard notice in a form set forth by the
7 Board briefly explaining the reasons for the proposed change of
8 ownership. Once such an application is submitted to the Board
9 and reviewed by the Board staff, the Board Chair shall take
10 action on an application for an exemption for a change of
11 ownership among related persons within 45 days after the
12 application has been deemed complete, provided the application
13 meets the applicable standards under this Section. If the Board
14 Chair has a conflict of interest or for other good cause, the
15 Chair may request review by the Board. Notwithstanding any
16 other provision of this Act, for purposes of this Section, a
17 change of ownership among related persons means a transaction
18 where the parties to the transaction are under common control
19 or ownership before and after the transaction is completed.

20 Nothing in this Act shall be construed as authorizing the
21 Board to impose any conditions, obligations, or limitations,
22 other than those required by this Section, with respect to the
23 issuance of an exemption for a change of ownership, including,
24 but not limited to, the time period before which a subsequent
25 change of ownership of the health care facility could be
26 sought, or the commitment to continue to offer for a specified

1 time period any services currently offered by the health care
2 facility.

3 (a-3) Upon a finding that an application to close a health
4 care facility is complete, the State Board shall publish a
5 legal notice on 3 consecutive days in a newspaper of general
6 circulation in the area or community to be affected and afford
7 the public an opportunity to request a hearing. If the
8 application is for a facility located in a Metropolitan
9 Statistical Area, an additional legal notice shall be published
10 in a newspaper of limited circulation, if one exists, in the
11 area in which the facility is located. If the newspaper of
12 limited circulation is published on a daily basis, the
13 additional legal notice shall be published on 3 consecutive
14 days. The legal notice shall also be posted on the Health
15 Facilities and Services Review Board's web site and sent to the
16 State Representative and State Senator of the district in which
17 the health care facility is located. No later than 90 days
18 after a discontinuation of a health facility, the applicant
19 must submit a statement to the State Board certifying that the
20 discontinuation is complete.

21 (a-5) Upon a finding that an application to discontinue a
22 category of service is complete and provides the requested
23 information, as specified by the State Board, an exemption
24 shall be issued. No later than 30 days after the issuance of
25 the exemption, the health care facility must give written
26 notice of the discontinuation of the category of service to the

1 State Senator and State Representative serving the legislative
2 district in which the health care facility is located. No later
3 than 90 days after a discontinuation of a category of service,
4 the applicant must submit a statement to the State Board
5 certifying that the discontinuation is complete.

6 (b) If a public hearing is requested, it shall be held at
7 least 15 days but no more than 30 days after the date of
8 publication of the legal notice in the community in which the
9 facility is located. The hearing shall be held in a place of
10 reasonable size and accessibility and a full and complete
11 written transcript of the proceedings shall be made. All
12 interested persons attending the hearing shall be given a
13 reasonable opportunity to present their positions in writing or
14 orally. The applicant shall provide a summary of the proposal
15 for distribution at the public hearing.

16 (c) For the purposes of this Section "newspaper of limited
17 circulation" means a newspaper intended to serve a particular
18 or defined population of a specific geographic area within a
19 Metropolitan Statistical Area such as a municipality, town,
20 village, township, or community area, but does not include
21 publications of professional and trade associations.

22 (Source: P.A. 98-1086, eff. 8-26-14; 99-154, eff. 7-28-15.)

23 (20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)

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

25 Sec. 10. Presenting information relevant to the approval of

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

12 Subsequent to an appearance by the applicant before the
13 State Board or default of such opportunity to appear, a motion
14 by the State Board to approve an application for a permit ~~or a~~
15 ~~certificate of recognition~~ which fails to pass or a motion to
16 deny an application for a permit ~~or a certificate of~~
17 ~~recognition~~ which passes shall be considered denial of the
18 application for a permit ~~or certificate of recognition~~, as the
19 case may be. Such action of denial or an action by the State
20 Board to revoke a permit ~~or a certificate of recognition~~ shall
21 be communicated to the applicant or holder of the permit ~~or~~
22 ~~certificate of recognition~~. Such person or organization shall
23 be afforded an opportunity for a hearing before an
24 administrative law judge, who is appointed by the Chairman of
25 the State Board. A written notice of a request for such hearing
26 shall be served upon the Chairman of the State Board within 30

1 days following notification of the decision of the State Board.
2 The administrative law judge shall take actions necessary to
3 ensure that the hearing is completed within a reasonable period
4 of time, but not to exceed 120 days, except for delays or
5 continuances agreed to by the person requesting the hearing.
6 Following its consideration of the report of the hearing, or
7 upon default of the party to the hearing, the State Board shall
8 make its final determination, specifying its findings and
9 conclusions within 90 days of receiving the written report of
10 the hearing. A copy of such determination shall be sent by
11 certified mail or served personally upon the party.

12 A full and complete record shall be kept of all
13 proceedings, including the notice of hearing, complaint, and
14 all other documents in the nature of pleadings, written motions
15 filed in the proceedings, and the report and orders of the
16 State Board or hearing officer. All testimony shall be reported
17 but need not be transcribed unless the decision is appealed in
18 accordance with the Administrative Review Law, as now or
19 hereafter amended. A copy or copies of the transcript may be
20 obtained by any interested party on payment of the cost of
21 preparing such copy or copies.

22 The State Board or hearing officer shall upon its own or
23 his motion, or on the written request of any party to the
24 proceeding who has, in the State Board's or hearing officer's
25 opinion, demonstrated the relevancy of such request to the
26 outcome of the proceedings, issue subpoenas requiring the

1 attendance and the giving of testimony by witnesses, and
2 subpoenas duces tecum requiring the production of books,
3 papers, records, or memoranda. The fees of witnesses for
4 attendance and travel shall be the same as the fees of
5 witnesses before the circuit court of this State.

6 When the witness is subpoenaed at the instance of the State
7 Board, or its hearing officer, such fees shall be paid in the
8 same manner as other expenses of the Board, and when the
9 witness is subpoenaed at the instance of any other party to any
10 such proceeding the State Board may, in accordance with its
11 rules, require that the cost of service of the subpoena or
12 subpoena duces tecum and the fee of the witness be borne by the
13 party at whose instance the witness is summoned. In such case,
14 the State Board in its discretion, may require a deposit to
15 cover the cost of such service and witness fees. A subpoena or
16 subpoena duces tecum so issued shall be served in the same
17 manner as a subpoena issued out of a court.

18 Any circuit court of this State upon the application of the
19 State Board or upon the application of any other party to the
20 proceeding, may, in its discretion, compel the attendance of
21 witnesses, the production of books, papers, records, or
22 memoranda and the giving of testimony before it or its hearing
23 officer conducting an investigation or holding a hearing
24 authorized by this Act, by an attachment for contempt, or
25 otherwise, in the same manner as production of evidence may be
26 compelled before the court.

1 (Source: P.A. 97-1115, eff. 8-27-12; 98-1086, eff. 8-26-14.)

2 (20 ILCS 3960/14.1)

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

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

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

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

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

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

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

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

1 (2), (4), or (5) of Section 3-117 of the ID/DD Community Care
2 Act. For facilities licensed under the MC/DD Act, no permit
3 shall be denied on the basis of prior operator history, other
4 than for actions specified under item (2), (4), or (5) of
5 Section 3-117 of the MC/DD Act. ~~For facilities licensed under~~
6 ~~the Specialized Mental Health Rehabilitation Act of 2013, no~~
7 ~~permit shall be denied on the basis of prior operator history,~~
8 ~~other than for actions specified under item (2), (4), or (5) of~~
9 ~~Section 3-117 of the Specialized Mental Health Rehabilitation~~
10 ~~Act of 2013.~~ For facilities licensed under the Nursing Home
11 Care Act, no permit shall be denied on the basis of prior
12 operator history, other than for: (i) actions specified under
13 item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing
14 Home Care Act; (ii) actions specified under item (a)(6) of
15 Section 3-119 of the Nursing Home Care Act; or (iii) actions
16 within the preceding 5 years constituting a substantial and
17 repeated failure to comply with the Nursing Home Care Act or
18 the rules and regulations adopted by the Department under that
19 Act. The State Board shall not deny a permit on account of any
20 action described in this subsection (a-5) without also
21 considering all such actions in the light of all relevant
22 information available to the State Board, including whether the
23 permit is sought to substantially comply with a mandatory or
24 voluntary plan of correction associated with any action
25 described in this subsection (a-5).

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

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

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

16 (2.5) A permit holder who fails to comply with the
17 post-permit and reporting requirements set forth in
18 Sections ~~Section~~ 5 and 8.5 shall be fined an amount not to
19 exceed \$10,000 plus an additional \$10,000 for each 30-day
20 period, or fraction thereof, that the violation continues.
21 This fine shall continue to accrue until the date that (i)
22 the post-permit requirements are met and the post-permit or
23 post-exemption reports are received by the State Board or
24 (ii) the matter is referred by the State Board to the State
25 Board's legal counsel. The accrued fine is not waived by
26 the permit holder submitting the required information and

1 reports. Prior to any fine beginning to accrue, the Board
2 shall notify, in writing, a permit holder of the due date
3 for the post-permit and reporting requirements no later
4 than 30 days before the due date for the requirements. This
5 paragraph (2.5) takes effect 6 months after August 27, 2012
6 (the effective date of Public Act 97-1115).

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

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

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

1 Act, or the MC/DD Act, with the exceptions of facilities
2 operated by a county or Illinois Veterans Homes, are exempt
3 from this permit requirement. However, facilities licensed
4 under the Nursing Home Care Act, the ID/DD Community Care
5 Act, or the MC/DD Act must comply with Section 3-423 of the
6 Nursing Home Care Act, Section 3-423 of the ID/DD Community
7 Care Act, or Section 3-423 of the MC/DD Act and must
8 provide the Board and the Department of Human Services with
9 30 days' written notice of their intent to close.
10 Facilities licensed under the ID/DD Community Care Act or
11 the MC/DD Act also must provide the Board and the
12 Department of Human Services with 30 days' written notice
13 of their intent to reduce the number of beds for a
14 facility.

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

21 (b-5) The State Board may accept in-kind services instead
22 of or in combination with the imposition of a fine. This
23 authorization is limited to cases where the non-compliant
24 individual or entity has waived the right to an administrative
25 hearing or opportunity to appear before the Board regarding the
26 non-compliant matter.

1 (c) Before imposing any fine authorized under this Section,
2 the State Board shall afford the person or permit holder, as
3 the case may be, an appearance before the State Board and an
4 opportunity for a hearing before a hearing officer appointed by
5 the State Board. The hearing shall be conducted in accordance
6 with Section 10. Requests for an appearance before the State
7 Board must be made within 30 days after receiving notice that a
8 fine will be imposed.

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

12 (e) Fines imposed under this Section shall continue to
13 accrue until: (i) the date that the matter is referred by the
14 State Board to the Board's legal counsel; or (ii) the date that
15 the health care facility becomes compliant with the Act,
16 whichever is earlier.

17 (Source: P.A. 98-463, eff. 8-16-13; 99-114, eff. 7-23-15;
18 99-180, eff. 7-29-15; revised 10-14-15.)