



Rep. William Davis

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LRB099 17095 RJF 46440 a

1 AMENDMENT TO HOUSE BILL 4518

2 AMENDMENT NO. _____. Amend House Bill 4518 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 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8 (Section scheduled to be repealed on December 31, 2019)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

1 Act.

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

4 (A) If a demonstration project under the Nursing
5 Home Care Act applies for a certificate of need to
6 convert to a nursing facility, it shall meet the
7 licensure and certificate of need requirements in
8 effect as of the date of application.

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

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

25 (3.7) Facilities licensed under the Specialized Mental
26 Health Rehabilitation Act of 2013.

1 (4) Hospitals, nursing homes, ambulatory surgical
2 treatment centers, or kidney disease treatment centers
3 maintained by the State or any department or agency
4 thereof.

5 (5) Kidney disease treatment centers, including a
6 free-standing hemodialysis unit required to be licensed
7 under the End Stage Renal Disease Facility Act.

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

12 (B) This Act does not apply to a dialysis unit
13 located in a licensed nursing home that offers or
14 provides dialysis-related services to residents with
15 end stage renal disease who have elected to receive
16 home dialysis within the nursing home.

17 (C) The Board, however, may require dialysis
18 facilities and licensed nursing homes under items (A)
19 and (B) of this subsection to report statistical
20 information on a quarterly basis to the Board to be
21 used by the Board to conduct analyses on the need for
22 proposed kidney disease treatment centers.

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

1 (7) An institution, place, building, or room used for
2 provision of a health care category of service, including,
3 but not limited to, cardiac catheterization and open heart
4 surgery.

5 (8) An institution, place, building, or room housing
6 major medical equipment used in the direct clinical
7 diagnosis or treatment of patients, and whose project cost
8 is in excess of the capital expenditure minimum.

9 "Health care facilities" does not include the following
10 entities or facility transactions:

11 (1) Federally-owned facilities.

12 (2) Facilities used solely for healing by prayer or
13 spiritual means.

14 (3) An existing facility located on any campus facility
15 as defined in Section 5-5.8b of the Illinois Public Aid
16 Code, provided that the campus facility encompasses 30 or
17 more contiguous acres and that the new or renovated
18 facility is intended for use by a licensed residential
19 facility.

20 (4) Facilities licensed under the Supportive
21 Residences Licensing Act or the Assisted Living and Shared
22 Housing Act.

23 (5) Facilities designated as supportive living
24 facilities that are in good standing with the program
25 established under Section 5-5.01a of the Illinois Public
26 Aid Code.

1 (6) Facilities established and operating under the
2 Alternative Health Care Delivery Act as a children's
3 community-based health care center alternative health care
4 model demonstration program or as an Alzheimer's Disease
5 Management Center alternative health care model
6 demonstration program.

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

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

1 the Nursing Home Care Act.

2 With the exception of those health care facilities
3 specifically included in this Section, nothing in this Act
4 shall be intended to include facilities operated as a part of
5 the practice of a physician or other licensed health care
6 professional, whether practicing in his individual capacity or
7 within the legal structure of any partnership, medical or
8 professional corporation, or unincorporated medical or
9 professional group. Further, this Act shall not apply to
10 physicians or other licensed health care professional's
11 practices where such practices are carried out in a portion of
12 a health care facility under contract with such health care
13 facility by a physician or by other licensed health care
14 professionals, whether practicing in his individual capacity
15 or within the legal structure of any partnership, medical or
16 professional corporation, or unincorporated medical or
17 professional groups, unless the entity constructs, modifies,
18 or establishes a health care facility as specifically defined
19 in this Section. This Act shall apply to construction or
20 modification and to establishment by such health care facility
21 of such contracted portion which is subject to facility
22 licensing requirements, irrespective of the party responsible
23 for such action or attendant financial obligation.

24 "Person" means any one or more natural persons, legal
25 entities, governmental bodies other than federal, or any
26 combination thereof.

1 "Consumer" means any person other than a person (a) whose
2 major occupation currently involves or whose official capacity
3 within the last 12 months has involved the providing,
4 administering or financing of any type of health care facility,
5 (b) who is engaged in health research or the teaching of
6 health, (c) who has a material financial interest in any
7 activity which involves the providing, administering or
8 financing of any type of health care facility, or (d) who is or
9 ever has been a member of the immediate family of the person
10 defined by (a), (b), or (c).

11 "State Board" or "Board" means the Health Facilities and
12 Services Review Board.

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

1 this Act.

2 "Establish" means the construction of a health care
3 facility or the replacement of an existing facility on another
4 site or the initiation of a category of service.

5 "Major medical equipment" means medical equipment which is
6 used for the provision of medical and other health services and
7 which costs in excess of the capital expenditure minimum,
8 except that such term does not include medical equipment
9 acquired by or on behalf of a clinical laboratory to provide
10 clinical laboratory services if the clinical laboratory is
11 independent of a physician's office and a hospital and it has
12 been determined under Title XVIII of the Social Security Act to
13 meet the requirements of paragraphs (10) and (11) of Section
14 1861(s) of such Act. In determining whether medical equipment
15 has a value in excess of the capital expenditure minimum, the
16 value of studies, surveys, designs, plans, working drawings,
17 specifications, and other activities essential to the
18 acquisition of such equipment shall be included.

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

1 For the purpose of this paragraph, the cost of any studies,
2 surveys, designs, plans, working drawings, specifications, and
3 other activities essential to the acquisition, improvement,
4 expansion, or replacement of any plant or equipment with
5 respect to which an expenditure is made shall be included in
6 determining if such expenditure exceeds the capital
7 expenditures minimum. Unless otherwise interdependent, or
8 submitted as one project by the applicant, components of
9 construction or modification undertaken by means of a single
10 construction contract or financed through the issuance of a
11 single debt instrument shall not be grouped together as one
12 project. Donations of equipment or facilities to a health care
13 facility which if acquired directly by such facility would be
14 subject to review under this Act shall be considered capital
15 expenditures, and a transfer of equipment or facilities for
16 less than fair market value shall be considered a capital
17 expenditure for purposes of this Act if a transfer of the
18 equipment or facilities at fair market value would be subject
19 to review.

20 "Capital expenditure minimum" means \$11,500,000 for
21 projects by hospital applicants, \$6,500,000 for applicants for
22 projects related to skilled and intermediate care long-term
23 care facilities licensed under the Nursing Home Care Act, and
24 \$3,000,000 for projects by all other applicants, which shall be
25 annually adjusted to reflect the increase in construction costs
26 due to inflation, for major medical equipment and for all other

1 capital expenditures.

2 "Non-clinical service area" means an area (i) for the
3 benefit of the patients, visitors, staff, or employees of a
4 health care facility and (ii) not directly related to the
5 diagnosis, treatment, or rehabilitation of persons receiving
6 services from the health care facility. "Non-clinical service
7 areas" include, but are not limited to, chapels; gift shops;
8 news stands; computer systems; tunnels, walkways, and
9 elevators; telephone systems; projects to comply with life
10 safety codes; educational facilities; student housing;
11 patient, employee, staff, and visitor dining areas;
12 administration and volunteer offices; modernization of
13 structural components (such as roof replacement and masonry
14 work); boiler repair or replacement; vehicle maintenance and
15 storage facilities; parking facilities; mechanical systems for
16 heating, ventilation, and air conditioning; loading docks; and
17 repair or replacement of carpeting, tile, wall coverings,
18 window coverings or treatments, or furniture. Solely for the
19 purpose of this definition, "non-clinical service area" does
20 not include health and fitness centers.

21 "Areawide" means a major area of the State delineated on a
22 geographic, demographic, and functional basis for health
23 planning and for health service and having within it one or
24 more local areas for health planning and health service. The
25 term "region", as contrasted with the term "subregion", and the
26 word "area" may be used synonymously with the term "areawide".

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

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

7 "Licensed health care professional" means a person
8 licensed to practice a health profession under pertinent
9 licensing statutes of the State of Illinois.

10 "Director" means the Director of the Illinois Department of
11 Public Health.

12 "Agency" or "Department" means the Illinois Department of
13 Public Health.

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

16 "Out-of-state facility" means a person that is both (i)
17 licensed as a hospital or as an ambulatory surgery center under
18 the laws of another state or that qualifies as a hospital or an
19 ambulatory surgery center under regulations adopted pursuant
20 to the Social Security Act and (ii) not licensed under the
21 Ambulatory Surgical Treatment Center Act, the Hospital
22 Licensing Act, or the Nursing Home Care Act. Affiliates of
23 out-of-state facilities shall be considered out-of-state
24 facilities. Affiliates of Illinois licensed health care
25 facilities 100% owned by an Illinois licensed health care
26 facility, its parent, or Illinois physicians licensed to

1 practice medicine in all its branches shall not be considered
2 out-of-state facilities. Nothing in this definition shall be
3 construed to include an office or any part of an office of a
4 physician licensed to practice medicine in all its branches in
5 Illinois that is not required to be licensed under the
6 Ambulatory Surgical Treatment Center Act.

7 "Change of ownership of a health care facility" means a
8 change in the person who has ownership or control of a health
9 care facility's physical plant and capital assets. A change in
10 ownership is indicated by the following transactions: sale,
11 transfer, acquisition, lease, change of sponsorship, or other
12 means of transferring control.

13 "Related person" means any person that: (i) is at least 50%
14 owned, directly or indirectly, by either the health care
15 facility or a person owning, directly or indirectly, at least
16 50% of the health care facility; or (ii) owns, directly or
17 indirectly, at least 50% of the health care facility.

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

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

24 "Category of service" means a grouping by generic class of
25 various types or levels of support functions, equipment, care,
26 or treatment provided to patients or residents, including, but

1 not limited to, classes such as medical-surgical, pediatrics,
2 or cardiac catheterization. A category of service may include
3 subcategories or levels of care that identify a particular
4 degree or type of care within the category of service. Nothing
5 in this definition shall be construed to include the practice
6 of a physician or other licensed health care professional while
7 functioning in an office providing for the care, diagnosis, or
8 treatment of patients. A category of service that is subject to
9 the Board's jurisdiction must be designated in rules adopted by
10 the Board.

11 "State Board Staff Report" means the document that sets
12 forth the review and findings of the State Board staff, as
13 prescribed by the State Board, regarding applications subject
14 to Board jurisdiction.

15 (Source: P.A. 98-414, eff. 1-1-14; 98-629, eff. 1-1-15; 98-651,
16 eff. 6-16-14; 98-1086, eff. 8-26-14; 99-78, eff. 7-20-15;
17 99-180, eff. 7-29-15.)

18 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

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

20 Sec. 4. Health Facilities and Services Review Board;
21 membership; appointment; term; compensation; quorum.
22 Notwithstanding any other provision in this Section, members of
23 the State Board holding office on the day before the effective
24 date of this amendatory Act of the 96th General Assembly shall
25 retain their authority.

1 (a) There is created the Health Facilities and Services
2 Review Board, which shall perform the functions described in
3 this Act. The Department shall provide operational support to
4 the Board as necessary, including the provision of office
5 space, supplies, and clerical, financial, and accounting
6 services. The Board may contract for functions or operational
7 support as needed. The Board may also contract with experts
8 related to specific health services or facilities and create
9 technical advisory panels to assist in the development of
10 criteria, standards, and procedures used in the evaluation of
11 applications for permit and exemption.

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

19 Each member shall have a reasonable knowledge of the
20 practice, procedures and principles of the health care delivery
21 system in Illinois, including at least 5 members who shall be
22 knowledgeable about health care delivery systems, health
23 systems planning, finance, or the management of health care
24 facilities currently regulated under the Act. One member shall
25 be a representative of a non-profit health care consumer
26 advocacy organization. A spouse, parent, sibling, or child of a

1 Board member cannot be an employee, agent, or under contract
2 with services or facilities subject to the Act. Prior to
3 appointment and in the course of service on the Board, members
4 of the Board shall disclose the employment or other financial
5 interest of any other relative of the member, if known, in
6 service or facilities subject to the Act. Members of the Board
7 shall declare any conflict of interest that may exist with
8 respect to the status of those relatives and recuse themselves
9 from voting on any issue for which a conflict of interest is
10 declared. No person shall be appointed or continue to serve as
11 a member of the State Board who is, or whose spouse, parent,
12 sibling, or child is, a member of the Board of Directors of,
13 has a financial interest in, or has a business relationship
14 with a health care facility.

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

1 Services Review Board.

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

6 The Secretary of Human Services, the Director of Healthcare
7 and Family Services, and the Director of Public Health, or
8 their designated representatives, shall serve as ex-officio,
9 non-voting members of the State Board.

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

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

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

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

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

24 (i) Five members of the State Board shall constitute a
25 quorum. The affirmative vote of 5 of the members of the State
26 Board shall be necessary for any action requiring a vote to be

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

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

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

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

15 (20 ILCS 3960/8.5)

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

17 Sec. 8.5. Certificate of exemption for change of ownership
18 of a health care facility; discontinuation of a health care
19 facility or category of service; public notice and public
20 hearing.

21 (a) Upon a finding that an application for a change of
22 ownership is complete, the State Board shall publish a legal
23 notice on one day in a newspaper of general circulation in the
24 area or community to be affected and afford the public an
25 opportunity to request a hearing. If the application is for a

1 facility located in a Metropolitan Statistical Area, an
2 additional legal notice shall be published in a newspaper of
3 limited circulation, if one exists, in the area in which the
4 facility is located. If the newspaper of limited circulation is
5 published on a daily basis, the additional legal notice shall
6 be published on one day. The applicant shall pay the cost
7 incurred by the Board in publishing the change of ownership
8 notice in newspapers as required under this subsection. The
9 legal notice shall also be posted on the Health Facilities and
10 Services Review Board's web site and sent to the State
11 Representative and State Senator of the district in which the
12 health care facility is located. An application for change of
13 ownership of a hospital shall not be deemed complete without a
14 signed certification that for a period of 2 years after the
15 change of ownership transaction is effective, the hospital will
16 not adopt a charity care policy that is more restrictive than
17 the policy in effect during the year prior to the transaction.
18 An application for a change of ownership need not contain
19 signed transaction documents so long as it includes the
20 following key terms of the transaction: names and background of
21 the parties; structure of the transaction; the person who will
22 be the licensed or certified entity after the transaction; the
23 ownership or membership interests in such licensed or certified
24 entity both prior to and after the transaction; fair market
25 value of assets to be transferred; and the purchase price or
26 other form of consideration to be provided for those assets.

1 The issuance of the certificate of exemption shall be
2 contingent upon the applicant submitting a statement to the
3 Board within 90 days after the closing date of the transaction,
4 or such longer period as provided by the Board, certifying that
5 the change of ownership has been completed in accordance with
6 the key terms contained in the application. If such key terms
7 of the transaction change, a new application shall be required.

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

26 Nothing in this Act shall be construed as authorizing the

1 Board to impose any conditions, obligations, or limitations,
2 other than those required by this Section, with respect to the
3 issuance of an exemption for a change of ownership, including,
4 but not limited to, the time period before which a subsequent
5 change of ownership of the health care facility could be
6 sought, or the commitment to continue to offer for a specified
7 time period any services currently offered by the health care
8 facility.

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

1 (a-5) Upon a finding that an application to discontinue a
2 category of service is complete and provides the requested
3 information, as specified by the State Board, an exemption
4 shall be issued. No later than 30 days after the issuance of
5 the exemption, the health care facility must give written
6 notice of the discontinuation of the category of service to the
7 State Senator and State Representative serving the legislative
8 district in which the health care facility is located. No later
9 than 90 days after a discontinuation of a category of service,
10 the applicant must submit a statement to the State Board
11 certifying that the discontinuation is complete.

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

22 (c) For the purposes of this Section "newspaper of limited
23 circulation" means a newspaper intended to serve a particular
24 or defined population of a specific geographic area within a
25 Metropolitan Statistical Area such as a municipality, town,
26 village, township, or community area, but does not include

1 publications of professional and trade associations.

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

3 (20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)

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

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

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

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

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

1 preparing such copy or copies.

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

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

24 Any circuit court of this State upon the application of the
25 State Board or upon the application of any other party to the
26 proceeding, may, in its discretion, compel the attendance of

1 witnesses, the production of books, papers, records, or
2 memoranda and the giving of testimony before it or its hearing
3 officer conducting an investigation or holding a hearing
4 authorized by this Act, by an attachment for contempt, or
5 otherwise, in the same manner as production of evidence may be
6 compelled before the court.

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

8 (20 ILCS 3960/14.1)

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

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

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

17 (2) The establishment, construction, modification, or
18 change of ownership of a health care facility without a
19 permit or exemption or in violation of the terms of a
20 permit.

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

23 (4) The failure, by any person subject to this Act, to
24 provide information requested by the State Board or Agency
25 within 30 days after a formal written request for the

1 information.

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

4 (a-5) For facilities licensed under the ID/DD Community
5 Care Act, no permit shall be denied on the basis of prior
6 operator history, other than for actions specified under item
7 (2), (4), or (5) of Section 3-117 of the ID/DD Community Care
8 Act. For facilities licensed under the MC/DD Act, no permit
9 shall be denied on the basis of prior operator history, other
10 than for actions specified under item (2), (4), or (5) of
11 Section 3-117 of the MC/DD Act. For facilities licensed under
12 the Specialized Mental Health Rehabilitation Act of 2013, no
13 permit shall be denied on the basis of prior operator history,
14 other than for actions specified under subsections (a) and (b)
15 ~~item (2), (4), or (5)~~ of Section 4-109 ~~3-117~~ of the Specialized
16 Mental Health Rehabilitation Act of 2013. For facilities
17 licensed under the Nursing Home Care Act, no permit shall be
18 denied on the basis of prior operator history, other than for:
19 (i) actions specified under item (2), (3), (4), (5), or (6) of
20 Section 3-117 of the Nursing Home Care Act; (ii) actions
21 specified under item (a)(6) of Section 3-119 of the Nursing
22 Home Care Act; or (iii) actions within the preceding 5 years
23 constituting a substantial and repeated failure to comply with
24 the Nursing Home Care Act or the rules and regulations adopted
25 by the Department under that Act. The State Board shall not
26 deny a permit on account of any action described in this

1 subsection (a-5) without also considering all such actions in
2 the light of all relevant information available to the State
3 Board, including whether the permit is sought to substantially
4 comply with a mandatory or voluntary plan of correction
5 associated with any action described in this subsection (a-5).

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

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

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

22 (2.5) A permit holder who fails to comply with the
23 post-permit and reporting requirements set forth in
24 Sections ~~Section~~ 5 and 8.5 shall be fined an amount not to
25 exceed \$10,000 plus an additional \$10,000 for each 30-day
26 period, or fraction thereof, that the violation continues.

1 This fine shall continue to accrue until the date that (i)
2 the post-permit requirements are met and the post-permit or
3 post-exemption reports are received by the State Board or
4 (ii) the matter is referred by the State Board to the State
5 Board's legal counsel. The accrued fine is not waived by
6 the permit holder submitting the required information and
7 reports. Prior to any fine beginning to accrue, the Board
8 shall notify, in writing, a permit holder of the due date
9 for the post-permit and reporting requirements no later
10 than 30 days before the due date for the requirements. This
11 paragraph (2.5) takes effect 6 months after August 27, 2012
12 (the effective date of Public Act 97-1115).

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

20 (4) A person who constructs, modifies, establishes, or
21 changes ownership of a health care facility without first
22 obtaining a permit or exemption shall be fined an amount
23 not to exceed \$25,000 plus an additional \$25,000 for each
24 30-day period, or fraction thereof, that the violation
25 continues.

26 (5) A person who discontinues a health care facility or

1 a category of service without first obtaining a permit or
2 exemption 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. For
5 purposes of this subparagraph (5), facilities licensed
6 under the Nursing Home Care Act, the ID/DD Community Care
7 Act, or the MC/DD Act, with the exceptions of facilities
8 operated by a county or Illinois Veterans Homes, are exempt
9 from this permit requirement. However, facilities licensed
10 under the Nursing Home Care Act, the ID/DD Community Care
11 Act, or the MC/DD Act must comply with Section 3-423 of the
12 Nursing Home Care Act, Section 3-423 of the ID/DD Community
13 Care Act, or Section 3-423 of the MC/DD Act and must
14 provide the Board and the Department of Human Services with
15 30 days' written notice of their intent to close.
16 Facilities licensed under the ID/DD Community Care Act or
17 the MC/DD Act also must provide the Board and the
18 Department of Human Services with 30 days' written notice
19 of their intent to reduce the number of beds for a
20 facility.

21 (6) A person subject to this Act who fails to provide
22 information requested by the State Board or Agency within
23 30 days of a formal written request shall be fined an
24 amount not to exceed \$1,000 plus an additional \$1,000 for
25 each 30-day period, or fraction thereof, that the
26 information is not received by the State Board or Agency.

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

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

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

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

23 (Source: P.A. 98-463, eff. 8-16-13; 99-114, eff. 7-23-15;
24 99-180, eff. 7-29-15; revised 10-14-15.)".