



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3510

by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3960/12

from Ch. 111 1/2, par. 1162

Amends the Illinois Health Facilities Planning Act. Requires the Health Facilities and Services Review Board to establish a separate set of rules and guidelines for long-term care for submission to the Index Division of the Office of Secretary of State no later than April 1, 2016. Requires the Health Services Review Board Long-term Care Facility Advisory Subcommittee to, in conjunction with the Board, study new approaches to the current bed need formula and Health Service Area boundaries and submit its recommendations to the Chairman of the Board no later than October 1, 2015. Requires the Chairman of the Board to ensure that the Health Services Review Board Long-term Care Facility Advisory Subcommittee includes 2 members recommended from each of the 3 statewide long-term care provider associations. Revokes all appointments to the Subcommittee on January 1, 2016 if by that time the Subcommittee has failed to recommend a separate set of rules and guidelines governing long-term care. Sets forth membership for the new Subcommittee to be appointed by the Board. Effective immediately.

LRB099 08691 JLK 28858 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 Section 12 as follows:

6 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

7 (Section scheduled to be repealed on December 31, 2019)

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

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

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

1 (3) (Blank).

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

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

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

26 (b) The number of existing and planned facilities

1 offering similar programs;

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

3 (d) The availability of facilities which may serve as  
4 alternatives or substitutes;

5 (e) The availability of personnel necessary to the  
6 operation of the facility;

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

9 (g) The financial and economic feasibility of proposed  
10 construction or modification; and

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

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

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

1 Administrator shall also receive a copy of the annual report.

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

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

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

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

24 (a) Projects to construct (1) a new or replacement  
25 facility located on a new site or (2) a replacement  
26 facility located on the same site as the original facility

1 and the cost of the replacement facility exceeds the  
2 capital expenditure minimum, which shall be reviewed by the  
3 Board within 120 days;

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

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

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

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

26 (9) Prescribe rules, regulations, standards, and criteria

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

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

14 (11) Issue written decisions upon request of the applicant  
15 or an adversely affected party to the Board. Requests for a  
16 written decision shall be made within 15 days after the Board  
17 meeting in which a final decision has been made. A "final  
18 decision" for purposes of this Act is the decision to approve  
19 or deny an application, or take other actions permitted under  
20 this Act, at the time and date of the meeting that such action  
21 is scheduled by the Board. State Board members shall provide  
22 their rationale when voting on an item before the State Board  
23 at a State Board meeting in order to comply with subsection (b)  
24 of Section 3-108 of the Administrative Review Law of the Code  
25 of Civil Procedure. The transcript of the State Board meeting  
26 shall be incorporated into the Board's final decision. The

1 staff of the Board shall prepare a written copy of the final  
2 decision and the Board shall approve a final copy for inclusion  
3 in the formal record. The Board shall consider, for approval,  
4 the written draft of the final decision no later than the next  
5 scheduled Board meeting. The written decision shall identify  
6 the applicable criteria and factors listed in this Act and the  
7 Board's regulations that were taken into consideration by the  
8 Board when coming to a final decision. If the Board denies or  
9 fails to approve an application for permit or exemption, the  
10 Board shall include in the final decision a detailed  
11 explanation as to why the application was denied and identify  
12 what specific criteria or standards the applicant did not  
13 fulfill.

14 (12) Require at least one of its members to participate in  
15 any public hearing, after the appointment of a majority of the  
16 members to the Board.

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

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

22 (15) Establish a separate set of rules and guidelines for  
23 long-term care that recognizes that nursing homes are a  
24 different business line and service model from other regulated  
25 facilities for submission to the Index Division of the Office  
26 of the Secretary of State no later than April 1, 2016. An open

1 and transparent process shall be developed that considers the  
2 following: how skilled nursing fits in the continuum of care  
3 with other care providers, modernization of nursing homes,  
4 establishment of more private rooms, development of  
5 alternative services, and current trends in long-term care  
6 services. The Chairman of the Board shall appoint a permanent  
7 Health Services Review Board Long-term Care Facility Advisory  
8 Subcommittee that shall develop and recommend to the Board the  
9 rules to be established by the Board under this paragraph (15).  
10 The Subcommittee shall also provide continuous review and  
11 commentary on policies and procedures relative to long-term  
12 care and the review of related projects. In consultation with  
13 other experts from the health field of long-term care, the  
14 Board and the Subcommittee shall study new approaches to the  
15 current bed need formula and Health Service Area boundaries to  
16 encourage flexibility and innovation in design models  
17 reflective of the changing long-term care marketplace and  
18 consumer preferences and submit its recommendations to the  
19 Chairman of the Board no later than October 1, 2015. The  
20 Subcommittee shall evaluate, and make recommendations to the  
21 State Board regarding, the buying, selling, and exchange of  
22 beds between long-term care facilities within a specified  
23 geographic area or drive time. The Board shall file the  
24 proposed related administrative rules for the separate rules  
25 and guidelines for long-term care required by this paragraph  
26 (15) by no later than September 30, 2011. The Subcommittee

1 shall be provided a reasonable and timely opportunity to review  
2 and comment on any review, revision, or updating of the  
3 criteria, standards, procedures, and rules used to evaluate  
4 project applications as provided under Section 12.3 of this  
5 Act.

6 By July 1, 2015, the Chairman of the Board shall ensure  
7 that the Subcommittee includes 2 members recommended from each  
8 of the 3 statewide long-term care provider associations. If, by  
9 January 1, 2016, the Subcommittee has failed to recommend a  
10 separate set of rules and guidelines governing long-term care,  
11 then the Subcommittee shall be disbanded. If the Subcommittee  
12 is disbanded, then the Chairman of the Board shall, by February  
13 1, 2016, appoint a new Subcommittee as follows:

14 (A) Two appointees recommended by each of the 3  
15 statewide long-term care provider associations, of  
16 which one shall be a provider and one an employee of  
17 the association;

18 (B) Three attorneys specializing in health law  
19 recommended by the 3 long-term care provider  
20 associations; and

21 (C) Two citizen members with knowledge of Illinois  
22 long-term care facilities.

23 The Chairman of the Board shall select a Subcommittee  
24 Chair, who shall serve for a period of one year, from those  
25 serving on the Subcommittee at the recommendation of the 3  
26 long-term care provider associations. Each year thereafter,

1 the Chairman of the Board shall name a successor Subcommittee  
2 Chair from the recommendations of a different provider  
3 association. One representative from the Department of Public  
4 Health, the Department of Healthcare and Family Services, and  
5 the Department of Human Services shall each serve as a  
6 non-voting member of the Subcommittee.

7 (16) Prescribe and provide forms pertaining to the State  
8 Board Staff Report. A State Board Staff Report shall pertain to  
9 applications that include, but are not limited to, applications  
10 for permit or exemption, applications for permit renewal,  
11 applications for extension of the obligation period,  
12 applications requesting a declaratory ruling, or applications  
13 under the Health Care Worker Self-Referral ~~Self-Referral~~ Act.  
14 State Board Staff Reports shall compare applications to the  
15 relevant review criteria under the Board's rules.

16 (17) ~~(16)~~ Establish a separate set of rules and guidelines  
17 for facilities licensed under the Specialized Mental Health  
18 Rehabilitation Act of 2013. An application for the  
19 re-establishment of a facility in connection with the  
20 relocation of the facility shall not be granted unless the  
21 applicant has a contractual relationship with at least one  
22 hospital to provide emergency and inpatient mental health  
23 services required by facility consumers, and at least one  
24 community mental health agency to provide oversight and  
25 assistance to facility consumers while living in the facility,  
26 and appropriate services, including case management, to assist

1 them to prepare for discharge and reside stably in the  
2 community thereafter. No new facilities licensed under the  
3 Specialized Mental Health Rehabilitation Act of 2013 shall be  
4 established after June 16, 2014 (the effective date of Public  
5 Act 98-651) ~~this amendatory Act of the 98th General Assembly~~  
6 except in connection with the relocation of an existing  
7 facility to a new location. An application for a new location  
8 shall not be approved unless there are adequate community  
9 services accessible to the consumers within a reasonable  
10 distance, or by use of public transportation, so as to  
11 facilitate the goal of achieving maximum individual self-care  
12 and independence. At no time shall the total number of  
13 authorized beds under this Act in facilities licensed under the  
14 Specialized Mental Health Rehabilitation Act of 2013 exceed the  
15 number of authorized beds on June 16, 2014 (the effective date  
16 of Public Act 98-651) ~~this amendatory Act of the 98th General~~  
17 ~~Assembly.~~

18 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,  
19 eff. 7-13-12; 97-1045, eff. 8-21-13; 97-1115, eff. 8-27-12;  
20 98-414, eff. 1-1-14; 98-463, eff. 8-16-13; 98-651, eff.  
21 6-16-14; 98-1086, eff. 8-26-14; revised 10-1-14.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.