Sen. Omar Aquino

Filed: 4/30/2026

AMENDMENT TO HOUSE BILL 4757

AMENDMENT NO. _____. Amend House Bill 4757 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Health Facilities Planning Act is amended by changing Sections 2, 3, 4, 4.2, 5, 6, 6.2, 8.5, 8.7, 10, 11, 12, 12.2, and 13 as follows:

(20 ILCS 3960/2) (from Ch. 111 1/2, par. 1152)

(Section scheduled to be repealed on December 31, 2029)

Sec. 2. Purpose of the Act. This Act shall establish a procedure (1) which requires a person establishing, constructing or modifying a health care facility, as herein defined, to have the qualifications, background, character and financial resources to adequately provide a proper service for the community; (2) that promotes the orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of such facilities; and

(3) that promotes planning for and development of health care facilities needed for comprehensive health care especially in areas where the health planning process has identified unmet needs.

The changes made to this Act by this amendatory Act of the 96th General Assembly are intended to accomplish the following objectives: to improve the financial ability of the public to obtain necessary health services; to establish an orderly and comprehensive health care delivery system that will guarantee the availability of quality health care to the general public; to maintain and improve the provision of essential health care services and increase the accessibility of those services to the medically underserved and indigent; to assure that the reduction and closure of health care services or facilities is performed in an orderly and timely manner, and that these actions are deemed to be in the best interests of the public; and to assess the financial burden to patients caused by unnecessary health care construction and modification. Evidence-based assessments, projections and decisions will be applied regarding capacity, quality, value and equity in the delivery of health care services in Illinois. The integrity of the Certificate of Need Permit and Certificate of Exemption processes are ~~process is~~ ensured through ethical practices and effective communication ~~revised ethics and communications~~ procedures. Cost containment and support for safety net services must continue to be central tenets of the Certificate

of Need Permit and Certificate of Exemption processes ~~process~~.
(Source: P.A. 99-527, eff. 1-1-17.)

(20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)
(Section scheduled to be repealed on December 31, 2029)
Sec. 3. Definitions. As used in this Act:
"Certificate of need" or "permit" means the authorization for a health care facility to conduct activities or transactions that require Board approval under this Act, including constructing or modifying the health care facility and acquiring major medical equipment.
"Certificate of exemption" or "exemption" means the authorization for a health care facility to conduct activities or transactions that are exempt from the permitting requirements under this Act, including changes of ownership, discontinuation of a single category of service, and the establishment or expansion of a neonatal intensive care service or the addition of beds.
"Health care facilities" means and includes the following facilities, organizations, and related persons:
(1) An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act.
(2) An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act.

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

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

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

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

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

(4) Hospitals, nursing homes, ambulatory surgical

treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof.

(5) Kidney disease treatment centers, including a free-standing hemodialysis unit required to meet the requirements of 42 CFR 494 in order to be certified for participation in Medicare and Medicaid under Titles XVIII and XIX of the federal Social Security Act.

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

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

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

(6) An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an

out-of-state facility.

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

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

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

(1) Federally-owned facilities.

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

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

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

(5) Facilities designated as supportive living facilities that are in good standing with the program established under Section 5-5.01a of the Illinois Public

Aid Code.

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

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

(8) Any change of ownership of a health care facility that is licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act, with the exception of facilities operated by a county or Illinois Veterans Homes. Changes of ownership of facilities licensed under the Nursing Home Care Act must meet the

requirements set forth in Sections 3-101 through 3-119 of the Nursing Home Care Act.

(9) (Blank).

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

"Person" means any one or more natural persons, legal

entities, governmental bodies other than federal, or any combination thereof.

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

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

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, ~~discontinuation, change of ownership,~~ of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for (i) the construction or modification of a facility licensed under the Assisted Living and Shared Housing

Act or (ii) a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under this Act.

"Discontinuation" means to, on a voluntary or involuntary basis, cease the operation of a health care facility or discontinue a category of service.

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

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

"Capital expenditure" means an expenditure: (A) made by or

on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

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

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

"Financial commitment" means the commitment of at least 33% of total funds assigned to cover total project cost, which occurs by the actual expenditure of 33% or more of the total project cost or the commitment to expend 33% or more of the total project cost by signed contracts or other legal means.

"Non-clinical service area" means an area (i) for the benefit of the patients, visitors, staff, or employees of a health care facility and (ii) not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; components in a patient care unit used as educational space, consultation and touchdown rooms, and on-call rooms; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components

(such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. "Non-clinical service area" does not include health and fitness centers, areas in a patient care unit, or areas that are required by Department licensing standards, including life safety code regulations, such as hallways and other interdependent components to a clinical area.

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

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

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

"Licensed health care professional" means a person licensed to practice a health profession under pertinent

licensing statutes of the State of Illinois.

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

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

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

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

"Change of ownership of a health care facility" means a

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

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

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

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

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

diagnosis, or treatment of patients. A category of service that is subject to the Board's jurisdiction must be designated in rules adopted by the Board.

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

"Patient care unit" means a physically identifiable and organized unit in a clearly defined administrative and geographic area that meets applicable standards of service in which nursing care and therapeutic services are provided on a continuous basis and to which specific nursing and support staff are assigned. "Patient care unit" does not include education spaces, consultation and touchdown rooms, and on-call rooms that are not required by Department licensing standards.

"Provider" includes, but is not limited to, a hospital, long-term care facility, end-stage renal dialysis facility, ambulatory surgical treatment center, freestanding emergency center, or birth center.

(Source: P.A. 104-365, eff. 1-1-26.)

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

(Section scheduled to be repealed on December 31, 2029)

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

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

(b) The State Board shall consist of 11 voting members. All members shall be residents of Illinois and at least 4 shall reside outside the Chicago Metropolitan Statistical Area Census Data. Consideration shall be given to potential appointees who reflect the ethnic and cultural diversity of the State. Neither Board members nor Board staff shall be convicted felons or have pled guilty to a felony.

Each member shall have a reasonable knowledge of the practice, procedures and principles of the health care delivery system in Illinois, including at least 5 members who shall be knowledgeable about health care delivery systems, health systems planning, finance, or the management of health care facilities currently regulated under the Act. One member shall be a representative of a non-profit health care consumer advocacy organization. One member shall be a representative

from the community with experience on the effects of discontinuing health care services or the closure of health care facilities on the surrounding community; provided, however, that all other members of the Board shall be appointed before this member shall be appointed. A spouse, parent, sibling, or child of a Board member cannot be an employee, agent, or under contract with services or facilities subject to the Act. Prior to appointment and in the course of service on the Board, members of the Board shall disclose the employment or other financial interest of any other relative of the member, if known, in service or facilities subject to the Act. Members of the Board shall declare any conflict of interest that may exist with respect to the status of those relatives and recuse themselves from voting on any issue for which a conflict of interest is declared. No person shall be appointed or continue to serve as a member of the State Board who is, or whose spouse, parent, sibling, or child is, a member of the Board of Directors of, has a financial interest in, or has a business relationship with a health care facility.

Notwithstanding any provision of this Section to the contrary, the term of office of each member of the State Board serving on the day before the effective date of this amendatory Act of the 96th General Assembly is abolished on the date upon which members of the Board, as established by this amendatory Act of the 96th General Assembly, have been appointed and can begin to take action as a Board.

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

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

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

(e) State Board members, while serving on business of the State Board, shall receive actual and necessary travel and

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

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

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

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

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

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

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

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

(Source: P.A. 102-4, eff. 4-27-21.)

(20 ILCS 3960/4.2)

(Section scheduled to be repealed on December 31, 2029)

Sec. 4.2. Ex parte communications.

(a) Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis including, but not limited to rulemaking, the State Board, any State Board member, employee, or a hearing officer shall not engage in ex parte communication in connection with the substance of any formally filed application for a permit with any person or party or the representative of any party. This subsection (a) applies when the Board, member, employee, or <u>administrative law judge</u> ~~hearing officer~~ knows, or should

know upon reasonable inquiry, that the application or exemption has been formally filed with the State Board. Nothing in this Section shall prohibit State Board employees ~~staff members~~ from providing technical assistance to applicants. Nothing in this Section shall prohibit State Board employees ~~staff~~ from verifying or clarifying an applicant's information as it prepares the State Board Staff Report. Once an application for permit or exemption is filed and deemed complete, a written record of any communication between State Board employees ~~staff~~ and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file.

(b) A State Board member or employee may communicate with other members or employees and any State Board member or hearing officer may have the aid and advice of one or more personal assistants.

(c) An ex parte communication received by the State Board, any State Board member, employee, or an administrative law judge ~~a hearing officer~~ shall be made a part of the record of the matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.

(d) "Ex parte communication" means any written or oral ~~a~~

communication ~~between a person who is not a State Board member or employee and a State Board member or employee~~ that imparts or requests material information or makes a material argument regarding potential action ~~reflects~~ on the substance of a pending or impending permit or exemption application or State Board proceeding and that takes place outside the open record of the proceeding. "Ex parte communication" does not include: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as the format of application materials, the number of copies required, the manner of filing, and the status of a matter; and (iii) statements made between a State Board member or employee and another State Board member or employee. ~~Communications regarding matters of procedure and practice, such as the format of pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications.~~ Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Any technical assistance shall be documented in writing by the applicant and employees within 10 business days after the technical assistance is provided and made part of the open record.

(e) For purposes of this Section, "employee" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis.

(f) The State Board, State Board member, or administrative law judge ~~hearing examiner~~ presiding over the proceeding, in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party or adversely affect the fairness of the proceedings.

(g) Nothing in this Section shall be construed to prevent the State Board or any member of the State Board from consulting with the attorney for the State Board.

(Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18; 101-81, eff. 7-12-19.)

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

(Section scheduled to be repealed on December 31, 2029)

Sec. 5. Construction, modification, or establishment of health care facilities or acquisition of major medical equipment; permits or exemptions. No person shall construct, modify or establish a health care facility or acquire major medical equipment without first obtaining a permit or exemption from the State Board.

The State Board shall not delegate to the staff of the State Board or any other person or entity the authority to grant permits or exemptions whenever the staff or other person or entity would be required to exercise any discretion affecting the decision to grant a permit or exemption.

The State Board may, by rule, delegate authority to the

Chairman to grant permits or exemptions when applications meet all of the State Board's review criteria and are unopposed.

A permit or exemption shall be obtained prior to the acquisition of major medical equipment or to the construction or modification of a health care facility which:

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

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

(c) changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 20 beds or more than 10% of total bed capacity as defined by the State Board, whichever is less, over a 2-year period.

A permit shall be valid only for the defined construction or modifications, site determined by legal street address or corresponding legal description, project amount, and person or persons named in the application for such permit. ~~The State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been financially committed, except for permits to establish a new facility or category of service.~~ A permit shall be valid until such time as the project has been completed, provided that the project commences and proceeds to completion with due

diligence by the completion date or extension date approved by the Board.

A permit holder must do the following: (i) submit the final completion and cost report for the project within 90 days after the approved project completion date or extension date and (ii) submit annual progress reports no earlier than 30 days before and no later than 30 days after each anniversary date of the Board's approval of the permit until the project is completed. To maintain a valid permit and to monitor progress toward project commencement and completion, routine post-permit reports shall be limited to annual progress reports and the final completion and cost report. Annual progress reports shall include information regarding the committed funds expended toward the approved project. For projects to be completed in 12 months or less, the permit holder shall report financial commitment in the final completion and cost report. For projects to be completed between 12 to 24 months, the permit holder shall report financial commitment in the first annual report. For projects to be completed in more than 24 months, the permit holder shall report financial commitment in the second annual progress report. The report shall contain information regarding expenditures and financial commitments. The State Board may extend the financial commitment period after considering a permit holder's showing of good cause and request for additional time to complete the project. <u>The State Board may</u>

approve the transfer of an existing permit without regard to whether the permit to be transferred has been financially committed, except for permits to establish a new facility or category of service.

The permit ~~Certificate of Need~~ process required under this Act is designed to restrain rising health care costs by preventing unnecessary construction or modification of health care facilities. The Board must assure that the establishment, construction, or modification of a health care facility or the acquisition of major medical equipment is consistent with the public interest and that the proposed project is consistent with the orderly and economic development or acquisition of those facilities and equipment and is in accord with the standards, criteria, or plans of need adopted and approved by the Board. Board decisions regarding the construction of health care facilities must consider capacity, quality, value, and equity. Projects may deviate from the costs, fees, and expenses provided in their project cost information for the project's cost components, provided that the final total project cost does not exceed the approved permit amount. Project alterations shall not increase the total approved permit amount by more than the limit set forth under the Board's rules.

The acquisition by any person of major medical equipment that will not be owned by or located in a health care facility and that will not be used to provide services to inpatients of

a health care facility shall be exempt from review provided that a notice is filed in accordance with exemption requirements.

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

(Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18.)

(20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

(Section scheduled to be repealed on December 31, 2029)

Sec. 6. Application for permit or exemption; exemption regulations.

(a) An application for a permit or exemption shall be made to the State Board upon forms provided by the State Board. This application shall contain such information as the State Board deems necessary. The State Board shall not require an applicant to file a Letter of Intent before an application is filed. Such application shall include affirmative evidence on which the State Board or Chairman may make its decision on the approval or denial of the permit or exemption.

(b) The State Board shall establish by regulation the procedures and requirements regarding issuance of exemptions. An exemption shall be approved when information required by the Board by rule is submitted. Projects eligible for an exemption, rather than a permit, include, but are not limited to, change of ownership of a health care facility and

discontinuation of a category of service, other than a health care facility maintained by the State or any agency or department thereof or a nursing home maintained by a county. The Board may accept an application for an exemption for the discontinuation of a category of service at a health care facility only once in a 6-month period following (1) the previous application for exemption at the same health care facility or (2) the final decision of the Board regarding the discontinuation of a category of service at the same health care facility, whichever occurs later. A discontinuation of a category of service shall otherwise require an application for a permit if an application for an exemption has already been approved ~~accepted~~ within the 6-month period. For a change of ownership among related persons of a health care facility, the State Board shall provide by rule for an expedited process for obtaining an exemption. For the purposes of this Section, "change of ownership among related persons" means a transaction in which the parties to the transaction are under common control or ownership before and after the transaction is complete.

(c) All applications shall be signed by the applicant and shall be verified by any 2 officers thereof.

(c-5) Any written review or findings of the Board staff set forth in the State Board Staff Report concerning an application for a permit must be made available to the public and the applicant at least 14 calendar days before the meeting

of the State Board at which the review or findings are considered. The applicant and members of the public may submit, to the State Board, written responses regarding the facts set forth in the review or findings of the Board staff. Members of the public and the applicant shall have until 10 days before the meeting of the State Board to submit any written response concerning the Board staff's written review or findings. The Board staff may revise any findings to address corrections of factual errors cited in the public response. At the meeting, the State Board may, in its discretion, permit the submission of other additional written materials.

(d) Upon receipt of an application for a permit, the State Board shall approve and authorize the issuance of a permit if it finds (1) that the applicant is fit, willing, and able to provide a proper standard of health care service for the community with particular regard to the qualification, background and character of the applicant, (2) that economic feasibility is demonstrated in terms of effect on the existing and projected operating budget of the applicant and of the health care facility; in terms of the applicant's ability to establish and operate such facility in accordance with licensure regulations promulgated under pertinent state laws; and in terms of the projected impact on the total health care expenditures in the facility and community, (3) that safeguards are provided that assure that the establishment,

construction or modification of the health care facility or acquisition of major medical equipment is consistent with the public interest, and (4) that the proposed project is consistent with the orderly and economic development of such facilities and equipment and is in accord with standards, criteria, or plans of need adopted and approved pursuant to the provisions of Section 12 of this Act.

(Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18; 101-83, eff. 7-15-19.)

(20 ILCS 3960/6.2)

(Section scheduled to be repealed on December 31, 2029)

Sec. 6.2. Review of permits and exemptions; public hearings; State Board Staff Reports.

(a) Upon receipt of an application for an exemption or a permit to establish, construct, or modify a health care facility, the State Board staff shall notify the applicant in writing within 10 business ~~working~~ days either that the application is or is not substantially complete. If the application is substantially complete, the State Board staff shall notify the applicant of the beginning of the review process. If the application is not substantially complete, the Board staff shall explain within the 10-day period why the application is incomplete.

(b) The State Board staff shall afford a reasonable amount of time as established by the State Board, but not to exceed

120 days, for the review of the application. The 120-day period begins on the day the application is found to be substantially complete, as that term is defined by the State Board. During the 120-day period, the applicant may request an extension. An applicant may modify the application, as established by the State Board by rule, at any time before a final administrative decision has been made on the application.

~~The State Board staff shall submit its State Board Staff Report to the State Board for its decision-making regarding approval or denial of the permit.~~

(c) When an application for an exemption or a permit is initially reviewed by State Board staff, as provided in this Section, the State Board shall, upon request by the applicant or an interested person, afford an opportunity for a public hearing within a reasonable amount of time after receipt of the complete application, but not to exceed 90 days after receipt of the complete application. Notice of the hearing shall be made promptly, not less than 10 business days before the hearing, by certified mail to the applicant and, not less than 10 business days before the hearing, by publication on the State Board's website, in the principal office and website, if available, of the local government ~~a newspaper of general circulation~~ in the area or community to be affected, and in the location where the meeting is to be held. The hearing shall be held in the area or community in which the

proposed project is to be located and shall be for the purpose of allowing the applicant and any interested person to present public testimony concerning the approval, denial, renewal, or revocation of the permit or exemption. All interested persons attending the hearing shall be given a reasonable opportunity to present their views or arguments in writing or orally, and a record of all of the testimony shall accompany any findings of the State Board staff. The State Board shall adopt reasonable rules and regulations governing the procedure and conduct of the hearings.

(d) The staff of the State Board shall submit its State Board Staff Report to the State Board for approval or denial of the permit or exemption.

(Source: P.A. 99-114, eff. 7-23-15; 100-681, eff. 8-3-18.)

(20 ILCS 3960/8.5)

(Section scheduled to be repealed on December 31, 2029)

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

(a) Upon a finding that an application for a change of ownership is complete, the State Board shall publish a ~~legal~~ notice ~~on 3 consecutive days~~ on the State Board's website and in the principal office and website, if available, of the local government in the area or community to be affected ~~in a newspaper of general circulation in the area or community to~~

~~be affected~~ and afford the public an opportunity to request a hearing. ~~If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The applicant shall pay the cost incurred by the Board in publishing the change of ownership notice in newspapers as required under this subsection.~~ The ~~legal~~ notice shall also be ~~posted on the Health Facilities and Services Review Board's web site and~~ sent to the State Representative and State Senator of the district in which the health care facility is located and to the Office of the Attorney General. An application for change of ownership of a hospital shall not be deemed complete without a signed certification that for a period of 2 years after the change of ownership transaction is effective, the hospital will not adopt a charity care policy that is more restrictive than the policy in effect during the year prior to the transaction. An application for a change of ownership need not contain signed transaction documents so long as it includes the following key terms of the transaction: names and background of the parties; structure of the transaction; the person who will be the licensed or certified entity after the transaction; the ownership or membership interests in such licensed or certified entity both

prior to and after the transaction; fair market value of assets to be transferred; and the purchase price or other form of consideration to be provided for those assets. The issuance of the certificate of exemption shall be contingent upon the applicant submitting a statement to the Board within 90 days after the closing date of the transaction, or such longer period as provided by the Board, certifying that the change of ownership has been completed in accordance with the key terms contained in the application. If such key terms of the transaction change, a new application shall be required.

Where a change of ownership is among related persons, and there are no other changes being proposed at the health care facility that would otherwise require a permit or exemption under this Act, the applicant shall submit an application consisting of a standard notice in a form set forth by the Board briefly explaining the reasons for the proposed change of ownership. Once such an application is submitted to the Board and reviewed by the Board staff, the State Board ~~Chair~~ shall take action on an application for an exemption for a change of ownership among related persons at the next meeting ~~within 45 days~~ after the application has been deemed complete, provided the application meets the applicable standards under this Section. ~~If the Board Chair has a conflict of interest or for other good cause, the Chair may request review by the Board.~~ Notwithstanding any other provision of this Act, for purposes of this Section, a change of ownership among related

persons means a transaction where the parties to the transaction are under common control or ownership before and after the transaction is completed.

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

The changes made by this amendatory Act of the 103rd General Assembly are inoperative on and after January 1, 2027.

(a-3) (Blank).

(a-5) If a public hearing is requested, it shall be held at least 15, but not more than 30 calendar days, after issuance of the notice in the community in which the facility is located. The hearing shall be held in the affected area or community in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. All interested persons attending the hearing shall be given a reasonable opportunity to present their positions in writing or orally. The applicant shall provide a summary or describe the proposed change of ownership at the public hearing. Upon a finding that an application to discontinue a category of

service is complete and provides the requested information, as specified by the State Board, an exemption shall be issued. No later than 30 days after the approval ~~issuance~~ of the exemption by the State Board, the health care facility must give written notice of the discontinuation of the category of service to the State Senator and State Representative serving the legislative district in which the health care facility is located. No later than 90 days after a discontinuation of a category of service, the applicant must submit a statement to the State Board certifying that the discontinuation is complete.

(b) (Blank). ~~If a public hearing is requested, it shall be held at least 15 days but no more than 30 days after the date of publication of the legal notice in the community in which the facility is located. The hearing shall be held in the affected area or community in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. All interested persons attending the hearing shall be given a reasonable opportunity to present their positions in writing or orally. The applicant shall provide a summary or describe the proposed change of ownership at the public hearing.~~

(c) (Blank). ~~For the purposes of this Section "newspaper of limited circulation" means a newspaper intended to serve a particular or defined population of a specific geographic area within a Metropolitan Statistical Area such as a municipality,~~

~~town, village, township, or community area, but does not include publications of professional and trade associations.~~

(d) The changes made to this Section by this amendatory Act of the 101st General Assembly shall apply to all applications submitted after the effective date of this amendatory Act of the 101st General Assembly.

(Source: P.A. 103-526, eff. 1-1-24.)

(20 ILCS 3960/8.7)

(Section scheduled to be repealed on December 31, 2029)

Sec. 8.7. Application for permit for discontinuation of a health care facility or category of service; public notice and public hearing.

(a) Upon a finding that an application to discontinue ~~close~~ a health care facility or discontinue a category of service is complete, the State Board shall publish a ~~legal~~ notice on the State Board's website and in the principal office and website, if available, of the local government in the area or community to be affected ~~3 consecutive days in a newspaper of general circulation in the area or community to be affected~~ and afford the public an opportunity to request a hearing. ~~If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily~~

~~basis, the additional legal notice shall be published on 3 consecutive days.~~ The ~~legal~~ notice shall also be ~~posted on the Health Facilities and Services Review Board's website and~~ sent to the State Representative and State Senator of the district in which the health care facility is located. In addition, the health care facility shall provide notice of closure to the local media that the health care facility would routinely notify about facility events.

An application to close a health care facility shall only be deemed complete if it includes evidence that the health care facility provided written notice at least 30 days prior to filing the application of its intent to do so to the municipality in which it is located, the State Representative and State Senator of the district in which the health care facility is located, the State Board, the Director of Public Health, and the Director of Healthcare and Family Services. The changes made to this subsection by this amendatory Act of the 101st General Assembly shall apply to all applications submitted after the effective date of this amendatory Act of the 101st General Assembly.

(b) No later than 30 days after issuance of a permit to discontinue ~~close~~ a health care facility or discontinue a category of service, the permit holder shall give written notice of the ~~closure or~~ discontinuation to the State Senator and State Representative serving the legislative district in which the health care facility is located.

(c) ~~(1)~~ If there is a pending lawsuit that challenges an application to discontinue a health care facility that either names the Board as a party or alleges fraud in the filing of the application, the Board may defer action on the application until all litigation related to the application is complete ~~for up to 6 months after the date of the initial deferral of the application~~.

~~(2) The Board may defer action on an application to discontinue a hospital that is pending before the Board as of the effective date of this amendatory Act of the 102nd General Assembly for up to 60 days after the effective date of this amendatory Act of the 102nd General Assembly.~~

~~(3) The Board may defer taking final action on an application to discontinue a hospital that is filed on or after January 12, 2021, until the earlier to occur of: (i) the expiration of the statewide disaster declaration proclaimed by the Governor of the State of Illinois due to the COVID-19 pandemic that is in effect on January 12, 2021, or any extension thereof, or July 1, 2021, whichever occurs later; or (ii) the expiration of the declaration of a public health emergency due to the COVID-19 pandemic as declared by the Secretary of the U.S. Department of Health and Human Services that is in effect on January 12, 2021, or any extension thereof, or July 1, 2021, whichever occurs later. This paragraph (3) is repealed as of the date of the expiration of the statewide disaster declaration proclaimed by the Governor~~

~~of the State of Illinois due to the COVID-19 pandemic that is in effect on January 12, 2021, or any extension thereof, or July 1, 2021, whichever occurs later.~~

(d) (Blank). ~~The changes made to this Section by this amendatory Act of the 101st General Assembly shall apply to all applications submitted after the effective date of this amendatory Act of the 101st General Assembly.~~

(e) An application for a permit under this Section is required for the discontinuation of a hospital regardless of whether the facility is licensed independently or licensed under a dual campus license.

(Source: P.A. 101-83, eff. 7-15-19; 101-650, eff. 7-7-20; 102-4, eff. 4-27-21.)

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

(Section scheduled to be repealed on December 31, 2029)

Sec. 10. Administrative hearings following an initial denial or revocation of a permit. ~~Presenting information relevant to the approval of a permit or certificate or in opposition to the denial of the application; notice of outcome and review proceedings. When a motion by the State Board, to approve an application for a permit, fails to pass, the applicant or the holder of the permit, as the case may be, and such other parties as the State Board permits, will be given an opportunity to appear before the State Board and present such information as may be relevant to the approval of a permit.~~

Subsequent to an appearance by the applicant before the State Board or default of such opportunity to appear, a motion by the State Board to approve an application for a permit which fails to pass shall be considered an initial denial of the application for a permit, as the case may be. Such action of an initial denial or an action by the State Board to revoke a permit shall be communicated to the applicant or holder of the permit. Such person or organization shall be afforded an opportunity for a hearing before an administrative law judge, who is appointed by the Chairman of the State Board. A written notice of a request for such hearing shall be served upon the Chairman of the State Board or the Agency within 30 days following notification of the decision of the State Board. The administrative law judge shall take actions necessary to ensure that the hearing is completed within a reasonable period of time, but not to exceed 120 days, except for delays or continuances agreed to by the person requesting the hearing. Following its consideration of the report of the hearing, or upon default of the party to the hearing, the State Board shall make its final determination, specifying its findings and conclusions within 90 days of receiving the written report of the hearing. A copy of such determination shall be sent by certified mail or served personally upon the party.

A full and complete record shall be kept of all administrative hearing proceedings, including the notice of

hearing, complaint, and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the State Board or hearing officer. All testimony shall be reported by either a court reporter or some other reliable means of recording but need not be transcribed unless the decision is appealed in accordance with the Administrative Review Law, as now or hereafter amended. A copy or copies of the administrative hearing transcript may be obtained by any ~~interested~~ party granted the right to intervene on payment of the cost of preparing such copy or copies.

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

When the witness is subpoenaed at the instance of the State Board, or its administrative law judge ~~hearing officer~~, such fees shall be paid in the same manner as other expenses of

the State Board, and when the witness is subpoenaed at the instance of any other party to any such proceeding the State Board may, in accordance with its rules, require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the State Board in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum so issued shall be served in the same manner as a subpoena issued out of a court.

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

(Source: P.A. 99-527, eff. 1-1-17; 100-681, eff. 8-3-18.)

(20 ILCS 3960/11) (from Ch. 111 1/2, par. 1161)

(Section scheduled to be repealed on December 31, 2029)

Sec. 11. Any person who is adversely affected by a final decision of the State Board may have such decision judicially

reviewed. The provisions of the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto shall apply to and govern all proceedings for the judicial review of final administrative decisions of the State Board. The term "administrative decisions" is as defined in Section 3-101 of the Code of Civil Procedure. In order to comply with subsection (b) of Section 3-108 of the Administrative Review Law of the Code of Civil Procedure, upon the filing of an administrative judicial review action, the State Board shall transcribe each State Board meeting using a certified court reporter. The transcript shall contain the record of the findings and decisions of the State Board.

(Source: P.A. 98-1086, eff. 8-26-14.)

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

(Section scheduled to be repealed on December 31, 2029)

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

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

underserved areas and other health care services, giving special consideration to the impact of projects on access to safety net services.

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

(3) (Blank).

(4) Develop criteria and standards for health care facilities planning, conduct statewide inventories of health care facilities, maintain an updated inventory on the Board's web site reflecting the most recent bed and service changes and updated need determinations when new census data become available or new need formulae are adopted, and develop health care facility plans which shall be utilized in the review of applications for permit under this Act. Such health facility plans shall be coordinated by the Board with pertinent State Plans. Inventories pursuant to this Section of skilled or intermediate care facilities licensed under the Nursing Home Care Act, skilled or intermediate care facilities licensed under the ID/DD Community Care Act, skilled or intermediate care facilities licensed under the MC/DD Act, facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013, or nursing homes licensed under the Hospital Licensing Act shall be conducted on an annual basis no later than July 1 of each year and shall

include among the information requested a list of all services provided by a facility to its residents and to the community at large and differentiate between active and inactive beds.

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

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

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

(c) The extent of utilization of existing facilities;

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

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

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

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

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

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

(5) Coordinate with other state agencies having responsibilities affecting health care facilities, including those of licensure and cost reporting.

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

(7) (Blank).

(8) Prescribe rules, regulations, standards, and criteria for the conduct of an expeditious review of applications for permits for projects of construction or modification of a health care facility, which projects are classified as emergency, substantive, or non-substantive in nature.

Substantive projects shall include no more than the following:

(a) Projects to construct (1) a new or replacement facility located on a new site or (2) a replacement facility located on the same site as the original facility and the cost of the replacement facility

exceeds the capital expenditure minimum, which shall be reviewed by the Board within 120 days;

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

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

The Chairman may approve applications for exemption that meet the criteria set forth in rules or refer them to the full Board. The Chairman may approve any unopposed application <u>for permit</u> that meets all of the review criteria or refer them to the full Board.

Such rules shall not prevent the conduct of a public hearing upon the timely request of an interested party. Such reviews shall not exceed 60 days from the date the application is declared to be complete.

(9) Prescribe rules, regulations, standards, and criteria pertaining to the granting of permits for construction and modifications which are emergent in

nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined in the rules and regulations of the State Board. This procedure is exempt from public hearing requirements of this Act.

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

(10.5) Provide its basis or rationale when voting on an item before it at a State Board meeting in order to comply with subsection (b) of Section 3-108 of the Code of Civil Procedure.

(11) If the State Board denies or fails to approve an application for permit or exemption, the State Board shall, upon request by the applicant, include in the final decision a detailed explanation as to why the application was denied and identify what specific criteria or standards the applicant did not fulfill. ~~Issue written decisions upon request of the applicant or an adversely affected party to the Board.~~ Requests for a written decision shall be made within 15 days after the State

Board meeting in which a final decision has been made. A "final decision" for purposes of this Act is the decision to approve or deny an application, or take other actions permitted under this Act, at the time and date of the meeting that such action is scheduled by the State Board. The transcript of the State Board meeting shall be the basis for the written decision and will be incorporated into the State Board's final decision. The staff of the State Board shall prepare a written copy of the final decision and the State Board shall approve a final copy for inclusion in the formal record. The State Board shall consider, for approval, the written draft of the final decision no later than the next scheduled State Board meeting. The written decision shall identify the applicable criteria and factors listed in this Act and the State Board's regulations that were taken into consideration by the State Board when coming to a final decision. ~~If the Board denies or fails to approve an application for permit or exemption, the Board shall include in the final decision a detailed explanation as to why the application was denied and identify what specific criteria or standards the applicant did not fulfill.~~

(12) (Blank).

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

(14) Implement public information campaigns to

regularly inform the general public about the opportunity for public hearings and public hearing procedures.

(15) Establish a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. The Subcommittee shall make recommendations to the Board no later than January 1, 2016 and every January thereafter pursuant to the Subcommittee's responsibility for the continuous review and commentary on policies and procedures relative to long-term care. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed

need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences and submit its recommendations to the Chairman of the Board no later than January 1, 2017. The Subcommittee shall evaluate, and make recommendations to the State Board regarding, the buying, selling, and exchange of beds between long-term care facilities within a specified geographic area or drive time. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by no later than September 30, 2011. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of this Act.

The Chairman of the Board shall appoint voting members of the Subcommittee, who shall serve for a period of 3 years, with one-third of the terms expiring each January, to be determined by lot. Appointees shall include, but not be limited to, recommendations from each of the 3 statewide long-term care associations, with an equal number to be appointed from each. Compliance with this provision shall be through the appointment and reappointment process. All appointees serving as of April

1, 2015 shall serve to the end of their term as determined by lot or until the appointee voluntarily resigns, whichever is earlier.

One representative from the Department of Public Health, the Department of Healthcare and Family Services, the Department on Aging, and the Department of Human Services may each serve as an ex-officio non-voting member of the Subcommittee. The Chairman of the Board shall select a Subcommittee Chair, who shall serve for a period of 3 years.

(16) Prescribe the format of the State Board Staff Report. A State Board Staff Report shall pertain to applications that include, but are not limited to, applications for permit or exemption, applications for permit renewal, applications for extension of the financial commitment period, applications requesting a declaratory ruling, or applications under the Health Care Worker Self-Referral Act. State Board Staff Reports shall compare applications to the relevant review criteria under the Board's rules.

(17) Establish a separate set of rules and guidelines for facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013. An application for the re-establishment of a facility in connection with the relocation of the facility shall not be granted unless the applicant has a contractual relationship with at least one

hospital to provide emergency and inpatient mental health services required by facility consumers, and at least one community mental health agency to provide oversight and assistance to facility consumers while living in the facility, and appropriate services, including case management, to assist them to prepare for discharge and reside stably in the community thereafter. No new facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013 shall be established after June 16, 2014 (the effective date of Public Act 98-651) except in connection with the relocation of an existing facility to a new location. An application for a new location shall not be approved unless there are adequate community services accessible to the consumers within a reasonable distance, or by use of public transportation, so as to facilitate the goal of achieving maximum individual self-care and independence. At no time shall the total number of authorized beds under this Act in facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013 exceed the number of authorized beds on June 16, 2014 (the effective date of Public Act 98-651).

(18) Elect a Vice Chairman to preside over State Board meetings and otherwise act in place of the Chairman when the Chairman is unavailable.

(Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18;

101-83, eff. 7-15-19.)

(20 ILCS 3960/12.2)

(Section scheduled to be repealed on December 31, 2029)

Sec. 12.2. Powers of the State Board staff. For purposes of this Act, the staff shall exercise the following powers and duties:

(1) Review applications for permits and exemptions in accordance with the standards, criteria, and plans of need established by the State Board under this Act and certify its finding to the State Board.

(1.5) Post the following on the Board's web site: relevant (i) rules, (ii) standards, (iii) criteria, (iv) State norms, (v) references used by Board staff in making determinations about whether application criteria are met, and (vi) notices of project-related filings, including notice of public comments related to the application.

(2) Charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. The State Board shall set the amounts by rule. Application fees for continuing care retirement communities, and other health care models that include regulated and unregulated components, shall apply only to those components subject to regulation under this Act. All fees and fines collected under the provisions of this Act shall be deposited into

the Illinois Health Facilities Planning Fund to be used for the expenses of administering this Act.

(2.1) Publish the following reports on the State Board website:

(A) An annual accounting, aggregated by category and with names of parties redacted, of fees, fines, and other revenue collected as well as expenses incurred, in the administration of this Act.

(B) An annual report, with names of the parties redacted, that summarizes all settlement agreements entered into with the State Board that resolve an alleged instance of noncompliance with State Board requirements under this Act.

(C) (Blank).

(D) Board reports showing the degree to which an application conforms to the review standards, a summation of relevant public testimony, and any additional information that staff wants to communicate.

(3) Coordinate with other State agencies having responsibilities affecting health care facilities, including licensure and cost reporting agencies.

(4) Issue advisory opinions upon request. Staff advisory opinions do not constitute determinations by the State Board. Determinations by the State Board are made through the declaratory ruling process.

For purposes of this Section, "staff" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis.

(Source: P.A. 100-681, eff. 8-3-18; 101-83, eff. 7-15-19.)

(20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

(Section scheduled to be repealed on December 31, 2029)

Sec. 13. Review and investigation ~~Investigation~~ of applications for permits. The State Board and State Board employees shall make or cause to be made such a review of all submitted applications or investigations as it deems necessary in connection with an application for a permit or exemption, or in connection with a determination of whether or not a project or transaction ~~construction or modification~~ that has been commenced is in accord with the exemption or permit issued by the State Board, or whether a project or transaction ~~construction or modification~~ has been commenced without a permit or exemption having been obtained. The State Board may issue subpoenas duces tecum requiring the production of records and may administer oaths to such witnesses.

Any circuit court of this State, upon the application of the State Board or upon the application of any proper party to such proceedings, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before the State Board, by a proceeding as for contempt, or otherwise, in

the same manner as production of evidence may be compelled before the court.

The State Board shall require all health facilities operating in this State to provide such reasonable reports at such times and containing such information as is needed by it to carry out the purposes and provisions of this Act. Prior to collecting information from health facilities, the State Board shall make reasonable efforts through a public process to consult with health facilities and associations that represent them to determine whether data and information requests will result in useful information for health planning, whether sufficient information is available from other sources, and whether data requested is routinely collected by health facilities and is available without retrospective record review. Data and information requests shall not impose undue paperwork burdens on health care facilities and personnel. Health facilities not complying with this requirement shall be reported to licensing, accrediting, certifying, or payment agencies as being in violation of State law. Health care facilities and other parties at interest shall have reasonable access, under rules established by the State Board, to all planning information submitted in accord with this Act pertaining to their area.

Among the reports to be required by the State Board are facility questionnaires for health care facilities licensed under the Ambulatory Surgical Treatment Center Act, the

Hospital Licensing Act, the Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013 and health care facilities that are required to meet the requirements of 42 CFR 494 in order to be certified for participation in Medicare and Medicaid under Titles XVIII and XIX of the federal Social Security Act. These questionnaires shall be conducted on an annual basis and compiled by the State Board. For health care facilities licensed under the Nursing Home Care Act or the Specialized Mental Health Rehabilitation Act of 2013, these reports shall include, but not be limited to, the identification of specialty services provided by the facility to patients, residents, and the community at large. Annual reports for facilities licensed under the ID/DD Community Care Act and facilities licensed under the MC/DD Act shall be different from the annual reports required of other health care facilities and shall be specific to those facilities licensed under the ID/DD Community Care Act or the MC/DD Act. The Health Facilities and Services Review Board shall consult with associations representing facilities licensed under the ID/DD Community Care Act and associations representing facilities licensed under the MC/DD Act when developing the information requested in these annual reports. For health care facilities that contain long term care beds, the reports shall also include the number of staffed long term care beds, physical capacity for long term care beds at the facility, and

long term care beds available for immediate occupancy. For purposes of this paragraph, "long term care beds" means beds (i) licensed under the Nursing Home Care Act, (ii) licensed under the ID/DD Community Care Act, (iii) licensed under the MC/DD Act, (iv) licensed under the Hospital Licensing Act, or (v) licensed under the Specialized Mental Health Rehabilitation Act of 2013 and certified as skilled nursing or nursing facility beds under Medicaid or Medicare.

(Source: P.A. 100-681, eff. 8-3-18; 100-957, eff. 8-19-18; 101-81, eff. 7-12-19.)".