**Section 1130.310 Projects or Transactions Subject to the Act**

a) Projects or Transactions that Require a Permit

A person must obtain a permit prior to establishing, constructing or modifying a health care facility, and prior to acquiring major medical equipment, unless an exemption from the requirement to obtain a permit has been issued in accordance with the provisions of Subpart D and Subpart E. A project or transaction that is not exempt is subject to review and requires a permit if the project or transaction:

1) requires a total capital expenditure in excess of the capital expenditure minimum. In determining the total capital expenditure, all costs (including the fair market value of assets acquired by lease or other means) that under generally accepted accounting principles are not properly chargeable as expenses of operation and maintenance, must be included even if any of such costs are not capitalized for reimbursement or other purposes. All capital expenditure minimums shall be annually adjusted upon the date established by the Act to reflect the increase in construction costs due to inflation. The basis for the adjustment shall be the latest annual inflation rate as reflected in the Means Cost Data (RSMeans Company, Inc., 700 Longwater Drive, Norwell MA 02061). The revised minimums shall be published on HFSRB's internet site (www.hfsrb.illinois.gov);

2) substantially changes the scope or changes the functional operation of the facility as defined in Section 1130.140;

3) results in the establishment of a health care facility as defined in Section 1130.140;

4) changes the bed capacity of a health care facility as specified in the Act and Section 1130.240(f);

5) involves a change of ownership, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E;

6) results in the discontinuation of an entire health care facility or category of service (see Section 1130.140), unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E; or

7) involves the acquisition of major medical equipment.

b) Components of a Project or Transaction

 In determining the elements of a transaction or a project subject to the Act, the following factors apply:

1) Components of construction or modification that are interdependent must be grouped together. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken.

2) *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.* [20 ILCS 3960/3]

3) Projects involving acquisition of equipment that are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components.

4) Components under an application for permit shall be for a single health care facility unless the components are interdependent among multiple facilities.

c) Prohibition on Splitting or Separating Components of a Project or Transaction

1) No health care facility or other person proposing a project or transaction that is subject to the Act shall split what should properly be considered a single capital expenditure into discrete components undertaken during a fiscal year to evade the capital expenditure review threshold.

2) No health care facility or other person proposing a project or transaction that is subject to the Act shall separate portions of a single project into components, including, but not limited to, site, facility, and equipment, to evade the capital expenditure review threshold or other requirements of the Act or HFSRB rules.

d) Examples of Projects or Transactions Subject to the Act

Examples of projects that constitute construction or modification of a health care facility subject to the Act include:

1) Projects located within a licensed or certified health care facility;

2) Projects that result in a health care facility:

A) Billing for services provided by the proposed project;

B) Capitalizing any portion of the proposed project;

C) Receiving reimbursement for services provided by the proposed project; or

D) Receiving recognition as the provider of the proposed service by third party payors;

3) Projects that are staffed or operated by the health care facility;

4) Projects that are otherwise of, by, through or on behalf of a health care facility;

5) Projects that provide a category of service as defined in 77 Ill. Adm. Code 1100 that are offered or made available on a regular basis to inpatients or outpatients of a health care facility.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)