



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1739

Introduced 2/15/2019, by Sen. John G. Mulroe

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3960/6	from Ch. 111 1/2, par. 1156
20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
20 ILCS 3960/12.2	

Amends the Illinois Health Facilities Planning Act. Provides that 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 (currently, only the public) at least 14 calendar days before the meeting of the State Board at which the review or findings are considered. Provides that members of the public and the applicant (currently, only members of the public) 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. Provides that the State Board shall, among other powers and duties, elect a Vice Chairman to preside over State Board meetings and otherwise act in place of the Chairman when the Chairman is unavailable. Provides that State Board staff shall, among other powers and duties, issue advisory opinions upon request. Provides that staff advisory opinions do not constitute determinations by the State Board. Provides that determinations by the State Board are made through the declaratory ruling process. Effective immediately.

LRB101 09796 RJF 54897 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Health Facilities Planning Act is  
5 amended by changing Sections 6, 12, and 12.2 as follows:

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

7 (Section scheduled to be repealed on December 31, 2029)

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

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

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

1 category of service, and discontinuation of a health care  
2 facility, other than a health care facility maintained by the  
3 State or any agency or department thereof or a nursing home  
4 maintained by a county. For a change of ownership of a health  
5 care facility, the State Board shall provide by rule for an  
6 expedited process for obtaining an exemption in accordance with  
7 Section 8.5 of this Act.

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

10 (c-5) Any written review or findings of the Board staff set  
11 forth in the State Board Staff Report concerning an application  
12 for a permit must be made available to the public and the  
13 applicant at least 14 calendar days before the meeting of the  
14 State Board at which the review or findings are considered. The  
15 applicant and members of the public may submit, to the State  
16 Board, written responses regarding the facts set forth in the  
17 review or findings of the Board staff. Members of the public  
18 and the applicant shall have until 10 days before the meeting  
19 of the State Board to submit any written response concerning  
20 the Board staff's written review or findings. The Board staff  
21 may revise any findings to address corrections of factual  
22 errors cited in the public response. At the meeting, the State  
23 Board may, in its discretion, permit the submission of other  
24 additional written materials.

25 (d) Upon receipt of an application for a permit, the State  
26 Board shall approve and authorize the issuance of a permit if

1 it finds (1) that the applicant is fit, willing, and able to  
2 provide a proper standard of health care service for the  
3 community with particular regard to the qualification,  
4 background and character of the applicant, (2) that economic  
5 feasibility is demonstrated in terms of effect on the existing  
6 and projected operating budget of the applicant and of the  
7 health care facility; in terms of the applicant's ability to  
8 establish and operate such facility in accordance with  
9 licensure regulations promulgated under pertinent state laws;  
10 and in terms of the projected impact on the total health care  
11 expenditures in the facility and community, (3) that safeguards  
12 are provided that assure that the establishment, construction  
13 or modification of the health care facility or acquisition of  
14 major medical equipment is consistent with the public interest,  
15 and (4) that the proposed project is consistent with the  
16 orderly and economic development of such facilities and  
17 equipment and is in accord with standards, criteria, or plans  
18 of need adopted and approved pursuant to the provisions of  
19 Section 12 of this Act.

20 (Source: P.A. 99-154, eff. 7-28-15; 100-518, eff. 6-1-18;  
21 100-681, eff. 8-3-18.)

22 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

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

1 and duties:

2 (1) Prescribe rules, regulations, standards, criteria,  
3 procedures or reviews which may vary according to the purpose  
4 for which a particular review is being conducted or the type of  
5 project reviewed and which are required to carry out the  
6 provisions and purposes of this Act. Policies and procedures of  
7 the State Board shall take into consideration the priorities  
8 and needs of medically underserved areas and other health care  
9 services, giving special consideration to the impact of  
10 projects on access to safety net services.

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

14 (3) (Blank).

15 (4) Develop criteria and standards for health care  
16 facilities planning, conduct statewide inventories of health  
17 care facilities, maintain an updated inventory on the Board's  
18 web site reflecting the most recent bed and service changes and  
19 updated need determinations when new census data become  
20 available or new need formulae are adopted, and develop health  
21 care facility plans which shall be utilized in the review of  
22 applications for permit under this Act. Such health facility  
23 plans shall be coordinated by the Board with pertinent State  
24 Plans. Inventories pursuant to this Section of skilled or  
25 intermediate care facilities licensed under the Nursing Home  
26 Care Act, skilled or intermediate care facilities licensed

1 under the ID/DD Community Care Act, skilled or intermediate  
2 care facilities licensed under the MC/DD Act, facilities  
3 licensed under the Specialized Mental Health Rehabilitation  
4 Act of 2013, or nursing homes licensed under the Hospital  
5 Licensing Act shall be conducted on an annual basis no later  
6 than July 1 of each year and shall include among the  
7 information requested a list of all services provided by a  
8 facility to its residents and to the community at large and  
9 differentiate between active and inactive beds.

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

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

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

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

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

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

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

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

25 (h) In the case of health care facilities established  
26 by a religious body or denomination, the needs of the

1 members of such religious body or denomination may be  
2 considered to be public need.

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

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

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

15 (7) (Blank).

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

21 Substantive projects shall include no more than the  
22 following:

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

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

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

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

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

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

23 (9) Prescribe rules, regulations, standards, and criteria  
24 pertaining to the granting of permits for construction and  
25 modifications which are emergent in nature and must be  
26 undertaken immediately to prevent or correct structural



1 deficiencies or hazardous conditions that may harm or injure  
2 persons using the facility, as defined in the rules and  
3 regulations of the State Board. This procedure is exempt from  
4 public hearing requirements of this Act.

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

11 (10.5) Provide its rationale when voting on an item before  
12 it at a State Board meeting in order to comply with subsection  
13 (b) of Section 3-108 of the Code of Civil Procedure.

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. The transcript of the State Board  
22 meeting shall be incorporated into the Board's final decision.  
23 The staff of the Board shall prepare a written copy of the  
24 final decision and the Board shall approve a final copy for  
25 inclusion in the formal record. The Board shall consider, for  
26 approval, the written draft of the final decision no later than

1 the next scheduled Board meeting. The written decision shall  
2 identify the applicable criteria and factors listed in this Act  
3 and the Board's regulations that were taken into consideration  
4 by the Board when coming to a final decision. If the Board  
5 denies or fails to approve an application for permit or  
6 exemption, the Board shall include in the final decision a  
7 detailed explanation as to why the application was denied and  
8 identify what specific criteria or standards the applicant did  
9 not fulfill.

10 (12) (Blank).

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

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

16 (15) Establish a separate set of rules and guidelines for  
17 long-term care that recognizes that nursing homes are a  
18 different business line and service model from other regulated  
19 facilities. An open and transparent process shall be developed  
20 that considers the following: how skilled nursing fits in the  
21 continuum of care with other care providers, modernization of  
22 nursing homes, establishment of more private rooms,  
23 development of alternative services, and current trends in  
24 long-term care services. The Chairman of the Board shall  
25 appoint a permanent Health Services Review Board Long-term Care  
26 Facility Advisory Subcommittee that shall develop and

1 recommend to the Board the rules to be established by the Board  
2 under this paragraph (15). The Subcommittee shall also provide  
3 continuous review and commentary on policies and procedures  
4 relative to long-term care and the review of related projects.  
5 The Subcommittee shall make recommendations to the Board no  
6 later than January 1, 2016 and every January thereafter  
7 pursuant to the Subcommittee's responsibility for the  
8 continuous review and commentary on policies and procedures  
9 relative to long-term care. In consultation with other experts  
10 from the health field of long-term care, the Board and the  
11 Subcommittee shall study new approaches to the current bed need  
12 formula and Health Service Area boundaries to encourage  
13 flexibility and innovation in design models reflective of the  
14 changing long-term care marketplace and consumer preferences  
15 and submit its recommendations to the Chairman of the Board no  
16 later than January 1, 2017. The Subcommittee shall evaluate,  
17 and make recommendations to the State Board regarding, the  
18 buying, selling, and exchange of beds between long-term care  
19 facilities within a specified geographic area or drive time.  
20 The Board shall file the proposed related administrative rules  
21 for the separate rules and guidelines for long-term care  
22 required by this paragraph (15) by no later than September 30,  
23 2011. The Subcommittee shall be provided a reasonable and  
24 timely opportunity to review and comment on any review,  
25 revision, or updating of the criteria, standards, procedures,  
26 and rules used to evaluate project applications as provided

1 under Section 12.3 of this Act.

2 The Chairman of the Board shall appoint voting members of  
3 the Subcommittee, who shall serve for a period of 3 years, with  
4 one-third of the terms expiring each January, to be determined  
5 by lot. Appointees shall include, but not be limited to,  
6 recommendations from each of the 3 statewide long-term care  
7 associations, with an equal number to be appointed from each.  
8 Compliance with this provision shall be through the appointment  
9 and reappointment process. All appointees serving as of April  
10 1, 2015 shall serve to the end of their term as determined by  
11 lot or until the appointee voluntarily resigns, whichever is  
12 earlier.

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

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

1 under the Board's rules.

2 (17) Establish a separate set of rules and guidelines for  
3 facilities licensed under the Specialized Mental Health  
4 Rehabilitation Act of 2013. An application for the  
5 re-establishment of a facility in connection with the  
6 relocation of the facility shall not be granted unless the  
7 applicant has a contractual relationship with at least one  
8 hospital to provide emergency and inpatient mental health  
9 services required by facility consumers, and at least one  
10 community mental health agency to provide oversight and  
11 assistance to facility consumers while living in the facility,  
12 and appropriate services, including case management, to assist  
13 them to prepare for discharge and reside stably in the  
14 community thereafter. No new facilities licensed under the  
15 Specialized Mental Health Rehabilitation Act of 2013 shall be  
16 established after June 16, 2014 (the effective date of Public  
17 Act 98-651) except in connection with the relocation of an  
18 existing facility to a new location. An application for a new  
19 location shall not be approved unless there are adequate  
20 community services accessible to the consumers within a  
21 reasonable distance, or by use of public transportation, so as  
22 to facilitate the goal of achieving maximum individual  
23 self-care and independence. At no time shall the total number  
24 of authorized beds under this Act in facilities licensed under  
25 the Specialized Mental Health Rehabilitation Act of 2013 exceed  
26 the number of authorized beds on June 16, 2014 (the effective

1 date of Public Act 98-651).

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

5 (Source: P.A. 99-78, eff. 7-20-15; 99-114, eff. 7-23-15;  
6 99-180, eff. 7-29-15; 99-277, eff. 8-5-15; 99-527, eff. 1-1-17;  
7 99-642, eff. 7-28-16; 100-518, eff. 6-1-18; 100-681, eff.  
8 8-3-18.)

9 (20 ILCS 3960/12.2)

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

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

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

18 (1.5) Post the following on the Board's web site:  
19 relevant (i) rules, (ii) standards, (iii) criteria, (iv)  
20 State norms, (v) references used by Board staff in making  
21 determinations about whether application criteria are met,  
22 and (vi) notices of project-related filings, including  
23 notice of public comments related to the application.

24 (2) Charge and collect an amount determined by the  
25 State Board and the staff to be reasonable fees for the

1 processing of applications by the State Board. The State  
2 Board shall set the amounts by rule. Application fees for  
3 continuing care retirement communities, and other health  
4 care models that include regulated and unregulated  
5 components, shall apply only to those components subject to  
6 regulation under this Act. All fees and fines collected  
7 under the provisions of this Act shall be deposited into  
8 the Illinois Health Facilities Planning Fund to be used for  
9 the expenses of administering this Act.

10 (2.1) Publish the following reports on the State Board  
11 website:

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

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

21 (C) (Blank).

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

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

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

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

9           Section 99. Effective date. This Act takes effect upon  
10          becoming law.