



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3813

Introduced 2/17/2023, by Rep. Maurice A. West, II

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/6	from Ch. 111 1/2, par. 1156
20 ILCS 3960/8.5	
20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
20 ILCS 3960/12.2	
20 ILCS 3960/8.7 rep.	

Amends the Illinois Health Facilities Planning Act. Restores the provisions that were amended by Public Act 101-83 to the form in which they existed before their amendment by Public Act 101-83. Effective immediately.

LRB103 05823 DTM 50843 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, 8.5, 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7 (Section scheduled to be repealed on December 31, 2029)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
14 applicant to file a Letter of Intent before an application is
15 filed. Such application shall include affirmative evidence on
16 which the State Board or Chairman may make its decision on the
17 approval 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
21 the Board by rule is submitted. Projects eligible for an
22 exemption, rather than a permit, include, but are not limited
23 to, change of ownership of a health care facility,

1 discontinuation of a category of service, and discontinuation
2 of a health care facility and discontinuation of a category of
3 service, other than a health care facility maintained by the
4 State or any agency or department thereof or a nursing home
5 maintained by a county. ~~The Board may accept an application~~
6 ~~for an exemption for the discontinuation of a category of~~
7 ~~service at a health care facility only once in a 6 month period~~
8 ~~following (1) the previous application for exemption at the~~
9 ~~same health care facility or (2) the final decision of the~~
10 ~~Board regarding the discontinuation of a category of service~~
11 ~~at the same health care facility, whichever occurs later. A~~
12 ~~discontinuation of a category of service shall otherwise~~
13 ~~require an application for a permit if an application for an~~
14 ~~exemption has already been accepted within the 6 month period.~~
15 For a change of ownership ~~among related persons~~ of a health
16 care facility, the State Board shall provide by rule for an
17 expedited process for obtaining an exemption in accordance
18 with Section 8.5 of this Act. ~~For the purposes of this Section,~~
19 ~~"change of ownership among related persons" means a~~
20 ~~transaction in which the parties to the transaction are under~~
21 ~~common control or ownership before and after the transaction~~
22 ~~is complete.~~

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

25 (c-5) Any written review or findings of the Board staff
26 ~~set forth in the State Board Staff Report~~ concerning an

1 application for a permit must be made available to the public
2 ~~and the applicant~~ at least 14 calendar days before the meeting
3 of the State Board at which the review or findings are
4 considered. The applicant and members of the public may
5 submit, to the State Board, written responses regarding the
6 facts set forth in the review or findings of the Board staff.
7 Members of the public ~~and the applicant~~ shall have until 10
8 days before the meeting of the State Board to submit any
9 written response concerning the Board staff's written review
10 or findings. The Board staff may revise any findings to
11 address corrections of factual errors cited in the public
12 response. At the meeting, the State Board may, in its
13 discretion, permit the submission of other additional written
14 materials.

15 (d) Upon receipt of an application for a permit, the State
16 Board shall approve and authorize the issuance of a permit if
17 it finds (1) that the applicant is fit, willing, and able to
18 provide a proper standard of health care service for the
19 community with particular regard to the qualification,
20 background and character of the applicant, (2) that economic
21 feasibility is demonstrated in terms of effect on the existing
22 and projected operating budget of the applicant and of the
23 health care facility; in terms of the applicant's ability to
24 establish and operate such facility in accordance with
25 licensure regulations promulgated under pertinent state laws;
26 and in terms of the projected impact on the total health care

1 expenditures in the facility and community, (3) that
2 safeguards are provided that assure that the establishment,
3 construction or modification of the health care facility or
4 acquisition of major medical equipment is consistent with the
5 public interest, and (4) that the proposed project is
6 consistent with the orderly and economic development of such
7 facilities and equipment and is in accord with standards,
8 criteria, or plans of need adopted and approved pursuant to
9 the provisions of Section 12 of this Act.

10 (Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18;
11 101-83, eff. 7-15-19.)

12 (20 ILCS 3960/8.5)

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

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

18 (a) Upon a finding that an application for a change of
19 ownership is complete, the State Board shall publish a legal
20 notice on ~~3 consecutive days~~ one day in a newspaper of general
21 circulation in the area or community to be affected and afford
22 the public an opportunity to request a hearing. If the
23 application is for a facility located in a Metropolitan
24 Statistical Area, an additional legal notice shall be
25 published in a newspaper of limited circulation, if one

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

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

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

25 Nothing in this Act shall be construed as authorizing the
26 Board to impose any conditions, obligations, or limitations,

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

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

1 must submit a statement to the State Board certifying that the
2 discontinuation is complete.

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

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

1 (c) For the purposes of this Section "newspaper of limited
2 circulation" means a newspaper intended to serve a particular
3 or defined population of a specific geographic area within a
4 Metropolitan Statistical Area such as a municipality, town,
5 village, township, or community area, but does not include
6 publications of professional and trade associations.

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

11 (Source: P.A. 100-201, eff. 8-18-17; 101-83, eff. 7-15-19.)

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

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

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

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

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

4 (3) (Blank).

5 (4) Develop criteria and standards for health care
6 facilities planning, conduct statewide inventories of health
7 care facilities, maintain an updated inventory on the Board's
8 web site reflecting the most recent bed and service changes
9 and updated need determinations when new census data become
10 available or new need formulae are adopted, and develop health
11 care facility plans which shall be utilized in the review of
12 applications for permit under this Act. Such health facility
13 plans shall be coordinated by the Board with pertinent State
14 Plans. Inventories pursuant to this Section of skilled or
15 intermediate care facilities licensed under the Nursing Home
16 Care Act, skilled or intermediate care facilities licensed
17 under the ID/DD Community Care Act, skilled or intermediate
18 care facilities licensed under the MC/DD Act, facilities
19 licensed under the Specialized Mental Health Rehabilitation
20 Act of 2013, or nursing homes licensed under the Hospital
21 Licensing Act shall be conducted on an annual basis no later
22 than July 1 of each year and shall include among the
23 information requested a list of all services provided by a
24 facility to its residents and to the community at large and
25 differentiate between active and inactive beds.

26 In developing health care facility plans, the State Board

1 shall consider, but shall not be limited to, the following:

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

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

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

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

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

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

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

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

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

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

26 (6) Solicit, accept, hold and administer on behalf of the

1 State any grants or bequests of money, securities or property
2 for use by the State Board in the administration of this Act;
3 and enter into contracts consistent with the appropriations
4 for purposes enumerated in this Act.

5 (7) (Blank).

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

11 Substantive projects shall include no more than the
12 following:

13 (a) Projects to construct (1) a new or replacement
14 facility located on a new site or (2) a replacement
15 facility located on the same site as the original facility
16 and the cost of the replacement facility exceeds the
17 capital expenditure minimum, which shall be reviewed by
18 the Board within 120 days;

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

23 (c) Projects proposing a change in the bed capacity of
24 a health care facility by an increase in the total number
25 of beds or by a redistribution of beds among various
26 categories of service or by a relocation of beds from one

1 physical facility or site to another by more than 20 beds
2 or more than 10% of total bed capacity, as defined by the
3 State Board, whichever is less, over a 2-year period.

4 The Chairman may approve applications for exemption that
5 meet the criteria set forth in rules or refer them to the full
6 Board. The Chairman may approve any unopposed application that
7 meets all of the review criteria or refer them to the full
8 Board.

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

13 (9) Prescribe rules, regulations, standards, and criteria
14 pertaining to the granting of permits for construction and
15 modifications which are emergent in nature and must be
16 undertaken immediately to prevent or correct structural
17 deficiencies or hazardous conditions that may harm or injure
18 persons using the facility, as defined in the rules and
19 regulations of the State Board. This procedure is exempt from
20 public hearing requirements of this Act.

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

1 (10.5) Provide its rationale when voting on an item before
2 it at a State Board meeting in order to comply with subsection
3 (b) of Section 3-108 of the Code of Civil Procedure.

4 (11) Issue written decisions upon request of the applicant
5 or an adversely affected party to the Board. Requests for a
6 written decision shall be made within 15 days after the Board
7 meeting in which a final decision has been made. A "final
8 decision" for purposes of this Act is the decision to approve
9 or deny an application, or take other actions permitted under
10 this Act, at the time and date of the meeting that such action
11 is scheduled by the Board. The transcript of the State Board
12 meeting shall be incorporated into the Board's final decision.
13 The staff of the Board shall prepare a written copy of the
14 final decision and the Board shall approve a final copy for
15 inclusion in the formal record. The Board shall consider, for
16 approval, the written draft of the final decision no later
17 than the next scheduled Board meeting. The written decision
18 shall identify the applicable criteria and factors listed in
19 this Act and the Board's regulations that were taken into
20 consideration by the Board when coming to a final decision. If
21 the Board denies or fails to approve an application for permit
22 or exemption, the Board shall include in the final decision a
23 detailed explanation as to why the application was denied and
24 identify what specific criteria or standards the applicant did
25 not fulfill.

26 (12) (Blank).

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

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

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

1 Subcommittee shall study new approaches to the current bed
2 need formula and Health Service Area boundaries to encourage
3 flexibility and innovation in design models reflective of the
4 changing long-term care marketplace and consumer preferences
5 and submit its recommendations to the Chairman of the Board no
6 later than January 1, 2017. The Subcommittee shall evaluate,
7 and make recommendations to the State Board regarding, the
8 buying, selling, and exchange of beds between long-term care
9 facilities within a specified geographic area or drive time.
10 The Board shall file the proposed related administrative rules
11 for the separate rules and guidelines for long-term care
12 required by this paragraph (15) by no later than September 30,
13 2011. The Subcommittee shall be provided a reasonable and
14 timely opportunity to review and comment on any review,
15 revision, or updating of the criteria, standards, procedures,
16 and rules used to evaluate project applications as provided
17 under Section 12.3 of this Act.

18 The Chairman of the Board shall appoint voting members of
19 the Subcommittee, who shall serve for a period of 3 years, with
20 one-third of the terms expiring each January, to be determined
21 by lot. Appointees shall include, but not be limited to,
22 recommendations from each of the 3 statewide long-term care
23 associations, with an equal number to be appointed from each.
24 Compliance with this provision shall be through the
25 appointment and reappointment process. All appointees serving
26 as of April 1, 2015 shall serve to the end of their term as

1 determined by lot or until the appointee voluntarily resigns,
2 whichever is earlier.

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

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

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

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

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

21 (Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18;
22 101-83, eff. 7-15-19.)

23 (20 ILCS 3960/12.2)

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

25 Sec. 12.2. Powers of the State Board staff. For purposes

1 of this Act, the staff shall exercise the following powers and
2 duties:

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

7 (1.5) Post the following on the Board's web site:
8 relevant (i) rules, (ii) standards, (iii) criteria, (iv)
9 State norms, (v) references used by Board staff in making
10 determinations about whether application criteria are met,
11 and (vi) notices of project-related filings, including
12 notice of public comments related to the application.

13 (2) Charge and collect an amount determined by the
14 State Board and the staff to be reasonable fees for the
15 processing of applications by the State Board. The State
16 Board shall set the amounts by rule. Application fees for
17 continuing care retirement communities, and other health
18 care models that include regulated and unregulated
19 components, shall apply only to those components subject
20 to regulation under this Act. All fees and fines collected
21 under the provisions of this Act shall be deposited into
22 the Illinois Health Facilities Planning Fund to be used
23 for the expenses of administering this Act.

24 (2.1) Publish the following reports on the State Board
25 website:

26 (A) An annual accounting, aggregated by category

1 and with names of parties redacted, of fees, fines,
2 and other revenue collected as well as expenses
3 incurred, in the administration of this Act.

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

9 (C) (Blank).

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

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

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

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

23 (20 ILCS 3960/8.7 rep.)

24 Section 10. The Illinois Health Facilities Planning Act is
25 amended by repealing Section 8.7.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.