

HB4431



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4431

Introduced 2/3/2020, by Rep. William Davis

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/14.1

Amends the Illinois Health Facilities Planning Act. Provides a fine for a permit or exemption holder who fails to comply with specified requirements of the Illinois Administrative Code. Effective immediately.

LRB101 18771 RJF 68226 b

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Section 14.1 as follows:

6 (20 ILCS 3960/14.1)

7 (Section scheduled to be repealed on December 31, 2029)

8 Sec. 14.1. Denial of permit; other sanctions.

9 (a) The State Board may deny an application for a permit or
10 may revoke or take other action as permitted by this Act with
11 regard to a permit as the State Board deems appropriate,
12 including the imposition of fines as set forth in this Section,
13 for any one or a combination of the following:

14 (1) The acquisition of major medical equipment without
15 a permit or in violation of the terms of a permit.

16 (2) The establishment, construction, modification, or
17 change of ownership of a health care facility without a
18 permit or exemption or in violation of the terms of a
19 permit.

20 (3) The violation of any provision of this Act or any
21 rule adopted under this Act.

22 (4) The failure, by any person subject to this Act, to
23 provide information requested by the State Board or Agency

1 within 30 days after a formal written request for the
2 information.

3 (5) The failure to pay any fine imposed under this
4 Section within 30 days of its imposition.

5 (a-5) For facilities licensed under the ID/DD Community
6 Care Act, no permit shall be denied on the basis of prior
7 operator history, other than for actions specified under item
8 (2), (4), or (5) of Section 3-117 of the ID/DD Community Care
9 Act. For facilities licensed under the MC/DD Act, no permit
10 shall be denied on the basis of prior operator history, other
11 than for actions specified under item (2), (4), or (5) of
12 Section 3-117 of the MC/DD Act. For facilities licensed under
13 the Specialized Mental Health Rehabilitation Act of 2013, no
14 permit shall be denied on the basis of prior operator history,
15 other than for actions specified under subsections (a) and (b)
16 of Section 4-109 of the Specialized Mental Health
17 Rehabilitation Act of 2013. For facilities licensed under the
18 Nursing Home Care Act, no permit shall be denied on the basis
19 of prior operator history, other than for: (i) actions
20 specified under item (2), (3), (4), (5), or (6) of Section
21 3-117 of the Nursing Home Care Act; (ii) actions specified
22 under item (a)(6) of Section 3-119 of the Nursing Home Care
23 Act; or (iii) actions within the preceding 5 years constituting
24 a substantial and repeated failure to comply with the Nursing
25 Home Care Act or the rules and regulations adopted by the
26 Department under that Act. The State Board shall not deny a

1 permit on account of any action described in this subsection
2 (a-5) without also considering all such actions in the light of
3 all relevant information available to the State Board,
4 including whether the permit is sought to substantially comply
5 with a mandatory or voluntary plan of correction associated
6 with any action described in this subsection (a-5).

7 (b) Persons shall be subject to fines as follows:

8 (1) A permit holder who fails to comply with the
9 requirements of maintaining a valid permit shall be fined
10 an amount not to exceed 1% of the approved permit amount
11 plus an additional 1% of the approved permit amount for
12 each 30-day period, or fraction thereof, that the violation
13 continues.

14 (2) A permit holder who alters the scope of an approved
15 project or whose project costs exceed the allowable permit
16 amount without first obtaining approval from the State
17 Board shall be fined an amount not to exceed the sum of (i)
18 the lesser of \$25,000 or 2% of the approved permit amount
19 and (ii) in those cases where the approved permit amount is
20 exceeded by more than \$1,000,000, an additional \$20,000 for
21 each \$1,000,000, or fraction thereof, in excess of the
22 approved permit amount.

23 (2.5) A permit or exemption holder who fails to comply
24 with the post-permit and reporting requirements set forth
25 in Sections 5 and 8.5 of this Act, or as set forth in
26 Section 1130.570 of Title 77 of the Illinois Administrative

1 Code, shall be fined an amount not to exceed \$10,000 plus
2 an additional \$10,000 for each 30-day period, or fraction
3 thereof, that the violation continues. The accrued fine is
4 not waived by the permit or exemption holder submitting the
5 required information and reports. Prior to any fine
6 beginning to accrue, the Board shall notify, in writing, a
7 permit or exemption holder of the due date for the
8 post-permit and reporting requirements no later than 30
9 days before the due date for the requirements. The
10 exemption letter shall serve as the notice for exemptions.

11 (3) A person who acquires major medical equipment or
12 who establishes a category of service without first
13 obtaining a permit or exemption, as the case may be, shall
14 be fined an amount not to exceed \$10,000 for each such
15 acquisition or category of service established plus an
16 additional \$10,000 for each 30-day period, or fraction
17 thereof, that the violation continues.

18 (4) A person who constructs, modifies, establishes, or
19 changes ownership of a health care facility without first
20 obtaining a permit or exemption shall be fined an amount
21 not to exceed \$25,000 plus an additional \$25,000 for each
22 30-day period, or fraction thereof, that the violation
23 continues.

24 (5) A person who discontinues a health care facility or
25 a category of service without first obtaining a permit or
26 exemption shall be fined an amount not to exceed \$10,000

1 plus an additional \$10,000 for each 30-day period, or
2 fraction thereof, that the violation continues. For
3 purposes of this subparagraph (5), facilities licensed
4 under the Nursing Home Care Act, the ID/DD Community Care
5 Act, or the MC/DD Act, with the exceptions of facilities
6 operated by a county or Illinois Veterans Homes, are exempt
7 from this permit requirement. However, facilities licensed
8 under the Nursing Home Care Act, the ID/DD Community Care
9 Act, or the MC/DD Act must comply with Section 3-423 of the
10 Nursing Home Care Act, Section 3-423 of the ID/DD Community
11 Care Act, or Section 3-423 of the MC/DD Act and must
12 provide the Board and the Department of Human Services with
13 30 days' written notice of their intent to close.
14 Facilities licensed under the ID/DD Community Care Act or
15 the MC/DD Act also must provide the Board and the
16 Department of Human Services with 30 days' written notice
17 of their intent to reduce the number of beds for a
18 facility.

19 (6) A person subject to this Act who fails to provide
20 information requested by the State Board or Agency within
21 30 days of a formal written request shall be fined an
22 amount not to exceed \$1,000 plus an additional \$1,000 for
23 each 30-day period, or fraction thereof, that the
24 information is not received by the State Board or Agency.

25 (b-5) The State Board may accept in-kind services or
26 donations instead of or in combination with the imposition of a

1 fine. This authorization is limited to cases where the
2 non-compliant individual or entity has waived the right to an
3 administrative hearing or opportunity to appear before the
4 Board regarding the non-compliant matter.

5 (c) Before imposing any fine authorized under this Section,
6 the State Board shall afford the person or permit holder, as
7 the case may be, an appearance before the State Board and an
8 opportunity for a hearing before a hearing officer appointed by
9 the State Board. The hearing shall be conducted in accordance
10 with Section 10. Requests for an appearance before the State
11 Board must be made within 30 days after receiving notice that a
12 fine will be imposed.

13 (d) All fines collected under this Act shall be transmitted
14 to the State Treasurer, who shall deposit them into the
15 Illinois Health Facilities Planning Fund.

16 (e) Fines imposed under this Section shall continue to
17 accrue until: (i) the date that the matter is referred by the
18 State Board to the Board's legal counsel; or (ii) the date that
19 the health care facility becomes compliant with the Act,
20 whichever is earlier.

21 (Source: P.A. 99-114, eff. 7-23-15; 99-180, eff. 7-29-15;
22 99-527, eff. 1-1-17; 99-642, eff. 6-28-16; 100-681, eff.
23 8-3-18.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.