

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 2, 3, 4, 4.2, 5, 6, 6.2, 8.5, 8.7,
6 10, 11, 12, 12.2, and 13 as follows:

7 (20 ILCS 3960/2) (from Ch. 111 1/2, par. 1152)

8 (Section scheduled to be repealed on December 31, 2029)

9 Sec. 2. Purpose of the Act. This Act shall establish a
10 procedure (1) which requires a person establishing,
11 constructing or modifying a health care facility, as herein
12 defined, to have the qualifications, background, character and
13 financial resources to adequately provide a proper service for
14 the community; (2) that promotes the orderly and economic
15 development of health care facilities in the State of Illinois
16 that avoids unnecessary duplication of such facilities; and
17 (3) that promotes planning for and development of health care
18 facilities needed for comprehensive health care especially in
19 areas where the health planning process has identified unmet
20 needs.

21 The changes made to this Act by this amendatory Act of the
22 96th General Assembly are intended to accomplish the following
23 objectives: to improve the financial ability of the public to

1 obtain necessary health services; to establish an orderly and
2 comprehensive health care delivery system that will guarantee
3 the availability of quality health care to the general public;
4 to maintain and improve the provision of essential health care
5 services and increase the accessibility of those services to
6 the medically underserved and indigent; to assure that the
7 reduction and closure of health care services or facilities is
8 performed in an orderly and timely manner, and that these
9 actions are deemed to be in the best interests of the public;
10 and to assess the financial burden to patients caused by
11 unnecessary health care construction and modification.
12 Evidence-based assessments, projections and decisions will be
13 applied regarding capacity, quality, value and equity in the
14 delivery of health care services in Illinois. The integrity of
15 the Certificate of Need Permit and Certificate of Exemption
16 processes are ~~process is~~ ensured through ethical practices and
17 effective communication ~~revised ethics and communications~~
18 procedures. Cost containment and support for safety net
19 services must continue to be central tenets of the Certificate
20 of Need Permit and Certificate of Exemption processes ~~process~~.
21 (Source: P.A. 99-527, eff. 1-1-17.)

22 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

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

24 Sec. 3. Definitions. As used in this Act:

25 "Certificate of need" or "permit" means the authorization

1 for a health care facility to conduct activities or
2 transactions that require Board approval under this Act,
3 including constructing or modifying the health care facility
4 and acquiring major medical equipment.

5 "Certificate of exemption" or "exemption" means the
6 authorization for a health care facility to conduct activities
7 or transactions that are exempt from the permitting
8 requirements under this Act, including changes of ownership,
9 discontinuation of a single category of service, and the
10 establishment or expansion of a neonatal intensive care
11 service or the addition of beds.

12 "Health care facilities" means and includes the following
13 facilities, organizations, and related persons:

14 (1) An ambulatory surgical treatment center required
15 to be licensed pursuant to the Ambulatory Surgical
16 Treatment Center Act.

17 (2) An institution, place, building, or agency
18 required to be licensed pursuant to the Hospital Licensing
19 Act.

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

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

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

5 (3.5) Skilled and intermediate care facilities
6 licensed under the ID/DD Community Care Act or the MC/DD
7 Act. No permit or exemption is required for a facility
8 licensed under the ID/DD Community Care Act or the MC/DD
9 Act prior to the reduction of the number of beds at a
10 facility. If there is a total reduction of beds at a
11 facility licensed under the ID/DD Community Care Act or
12 the MC/DD Act, this is a discontinuation or closure of the
13 facility. If a facility licensed under the ID/DD Community
14 Care Act or the MC/DD Act reduces the number of beds or
15 discontinues the facility, that facility must notify the
16 Board as provided in Section 14.1 of this Act.

17 (3.7) Facilities licensed under the Specialized Mental
18 Health Rehabilitation Act of 2013.

19 (4) Hospitals, nursing homes, ambulatory surgical
20 treatment centers, or kidney disease treatment centers
21 maintained by the State or any department or agency
22 thereof.

23 (5) Kidney disease treatment centers, including a
24 free-standing hemodialysis unit required to meet the
25 requirements of 42 CFR 494 in order to be certified for
26 participation in Medicare and Medicaid under Titles XVIII

1 and XIX of the federal Social Security Act.

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

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

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

17 (6) An institution, place, building, or room used for
18 the performance of outpatient surgical procedures that is
19 leased, owned, or operated by or on behalf of an
20 out-of-state facility.

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

25 (8) An institution, place, building, or room housing
26 major medical equipment used in the direct clinical

1 diagnosis or treatment of patients, and whose project cost
2 is in excess of the capital expenditure minimum.

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

5 (1) Federally-owned facilities.

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

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

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

17 (5) Facilities designated as supportive living
18 facilities that are in good standing with the program
19 established under Section 5-5.01a of the Illinois Public
20 Aid Code.

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

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

13 (8) Any change of ownership of a health care facility
14 that is licensed under the Nursing Home Care Act, the
15 Specialized Mental Health Rehabilitation Act of 2013, the
16 ID/DD Community Care Act, or the MC/DD Act, with the
17 exception of facilities operated by a county or Illinois
18 Veterans Homes. Changes of ownership of facilities
19 licensed under the Nursing Home Care Act must meet the
20 requirements set forth in Sections 3-101 through 3-119 of
21 the Nursing Home Care Act.

22 (9) (Blank).

23 With the exception of those health care facilities
24 specifically included in this Section, nothing in this Act
25 shall be intended to include facilities operated as a part of
26 the practice of a physician or other licensed health care

1 professional, whether practicing in his individual capacity or
2 within the legal structure of any partnership, medical or
3 professional corporation, or unincorporated medical or
4 professional group. Further, this Act shall not apply to
5 physicians or other licensed health care professional's
6 practices where such practices are carried out in a portion of
7 a health care facility under contract with such health care
8 facility by a physician or by other licensed health care
9 professionals, whether practicing in his individual capacity
10 or within the legal structure of any partnership, medical or
11 professional corporation, or unincorporated medical or
12 professional groups, unless the entity constructs, modifies,
13 or establishes a health care facility as specifically defined
14 in this Section. This Act shall apply to construction or
15 modification and to establishment by such health care facility
16 of such contracted portion which is subject to facility
17 licensing requirements, irrespective of the party responsible
18 for such action or attendant financial obligation.

19 "Person" means any one or more natural persons, legal
20 entities, governmental bodies other than federal, or any
21 combination thereof.

22 "Consumer" means any person other than a person (a) whose
23 major occupation currently involves or whose official capacity
24 within the last 12 months has involved the providing,
25 administering or financing of any type of health care
26 facility, (b) who is engaged in health research or the

1 teaching of health, (c) who has a material financial interest
2 in any activity which involves the providing, administering or
3 financing of any type of health care facility, or (d) who is or
4 ever has been a member of the immediate family of the person
5 defined by item (a), (b), or (c).

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

8 "Construction or modification" means the establishment,
9 erection, building, alteration, reconstruction,
10 modernization, improvement, extension, ~~discontinuation,~~
11 ~~change of ownership,~~ of or by a health care facility, or the
12 purchase or acquisition by or through a health care facility
13 of equipment or service for diagnostic or therapeutic purposes
14 or for facility administration or operation, or any capital
15 expenditure made by or on behalf of a health care facility
16 which exceeds the capital expenditure minimum; however, any
17 capital expenditure made by or on behalf of a health care
18 facility for (i) the construction or modification of a
19 facility licensed under the Assisted Living and Shared Housing
20 Act or (ii) a conversion project undertaken in accordance with
21 Section 30 of the Older Adult Services Act shall be excluded
22 from any obligations under this Act.

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

26 "Establish" means the construction of a health care

1 facility or the replacement of an existing health care
2 facility on another site or the initiation of a category of
3 service.

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

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

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

20 "Capital expenditure minimum" means \$11,500,000 for
21 projects by hospital applicants, \$6,500,000 for applicants for
22 projects related to skilled and intermediate care long-term
23 care facilities licensed under the Nursing Home Care Act, and
24 \$3,000,000 for projects by all other applicants, which shall
25 be annually adjusted to reflect the increase in construction
26 costs due to inflation, for major medical equipment and for

1 all other capital expenditures.

2 "Financial commitment" means the commitment of at least
3 33% of total funds assigned to cover total project cost, which
4 occurs by the actual expenditure of 33% or more of the total
5 project cost or the commitment to expend 33% or more of the
6 total project cost by signed contracts or other legal means.

7 "Non-clinical service area" means an area (i) for the
8 benefit of the patients, visitors, staff, or employees of a
9 health care facility and (ii) not directly related to the
10 diagnosis, treatment, or rehabilitation of persons receiving
11 services from the health care facility. "Non-clinical service
12 areas" include, but are not limited to, chapels; gift shops;
13 news stands; computer systems; tunnels, walkways, and
14 elevators; telephone systems; projects to comply with life
15 safety codes; educational facilities; components in a patient
16 care unit used as educational space, consultation and
17 touchdown rooms, and on-call rooms; student housing; patient,
18 employee, staff, and visitor dining areas; administration and
19 volunteer offices; modernization of structural components
20 (such as roof replacement and masonry work); boiler repair or
21 replacement; vehicle maintenance and storage facilities;
22 parking facilities; mechanical systems for heating,
23 ventilation, and air conditioning; loading docks; and repair
24 or replacement of carpeting, tile, wall coverings, window
25 coverings or treatments, or furniture. "Non-clinical service
26 area" does not include health and fitness centers, areas in a

1 patient care unit, or areas that are required by Department
2 licensing standards, including life safety code regulations,
3 such as hallways and other interdependent components to a
4 clinical area.

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

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

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

18 "Licensed health care professional" means a person
19 licensed to practice a health profession under pertinent
20 licensing statutes of the State of Illinois.

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

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

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

1 Act.

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

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

25 "Related person" means any person that: (i) is at least
26 50% owned, directly or indirectly, by either the health care

1 facility or a person owning, directly or indirectly, at least
2 50% of the health care facility; or (ii) owns, directly or
3 indirectly, at least 50% of the health care facility.

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

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

10 "Category of service" means a grouping by generic class of
11 various types or levels of support functions, equipment, care,
12 or treatment provided to patients or residents, including, but
13 not limited to, classes such as medical-surgical, pediatrics,
14 or cardiac catheterization. A category of service may include
15 subcategories or levels of care that identify a particular
16 degree or type of care within the category of service. Nothing
17 in this definition shall be construed to include the practice
18 of a physician or other licensed health care professional
19 while functioning in an office providing for the care,
20 diagnosis, or treatment of patients. A category of service
21 that is subject to the Board's jurisdiction must be designated
22 in rules adopted by the Board.

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

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

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

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

15 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

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

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

19 (a) There is created the Health Facilities and Services
20 Review Board, which shall perform the functions described in
21 this Act. The Department shall provide operational support to
22 the Board as necessary, including the provision of office
23 space, supplies, and clerical, financial, and accounting
24 services. The Board may contract for functions or operational
25 support as needed. The Board may also contract with experts

1 related to specific health services or facilities and create
2 technical advisory panels to assist in the development of
3 criteria, standards, and procedures used in the evaluation of
4 applications for permit and exemption.

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

12 Each member shall have a reasonable knowledge of the
13 practice, procedures and principles of the health care
14 delivery system in Illinois, including at least 5 members who
15 shall be knowledgeable about health care delivery systems,
16 health systems planning, finance, or the management of health
17 care facilities currently regulated under the Act. One member
18 shall be a representative of a non-profit health care consumer
19 advocacy organization. One member shall be a representative
20 from the community with experience on the effects of
21 discontinuing health care services or the closure of health
22 care facilities on the surrounding community; provided,
23 however, that all other members of the Board shall be
24 appointed before this member shall be appointed. A spouse,
25 parent, sibling, or child of a Board member cannot be an
26 employee, agent, or under contract with services or facilities

1 subject to the Act. Prior to appointment and in the course of
2 service on the Board, members of the Board shall disclose the
3 employment or other financial interest of any other relative
4 of the member, if known, in service or facilities subject to
5 the Act. Members of the Board shall declare any conflict of
6 interest that may exist with respect to the status of those
7 relatives and recuse themselves from voting on any issue for
8 which a conflict of interest is declared. No person shall be
9 appointed or continue to serve as a member of the State Board
10 who is, or whose spouse, parent, sibling, or child is, a member
11 of the Board of Directors of, has a financial interest in, or
12 has a business relationship with a health care facility.

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

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

24 The Secretary of Human Services, the Director of
25 Healthcare and Family Services, and the Director of Public
26 Health, or their designated representatives, shall serve as

1 ex-officio, non-voting members of the State Board.

2 (d) Of those members initially appointed by the Governor
3 following the effective date of this amendatory Act of the
4 96th General Assembly, 3 shall serve for terms expiring July
5 1, 2011, 3 shall serve for terms expiring July 1, 2012, and 3
6 shall serve for terms expiring July 1, 2013. Thereafter, each
7 appointed member shall hold office for a term of 3 years,
8 provided that any member appointed to fill a vacancy occurring
9 prior to the expiration of the term for which his or her
10 predecessor was appointed shall be appointed for the remainder
11 of such term and the term of office of each successor shall
12 commence on July 1 of the year in which his predecessor's term
13 expires. Each member shall hold office until his or her
14 successor is appointed and qualified. The Governor may
15 reappoint a member for additional terms, but no member shall
16 serve more than 3 terms, subject to review and re-approval
17 every 3 years.

18 (e) State Board members, while serving on business of the
19 State Board, shall receive actual and necessary travel and
20 subsistence expenses while so serving away from their places
21 of residence. Until March 1, 2010, a member of the State Board
22 who experiences a significant financial hardship due to the
23 loss of income on days of attendance at meetings or while
24 otherwise engaged in the business of the State Board may be
25 paid a hardship allowance, as determined by and subject to the
26 approval of the Governor's Travel Control Board.

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

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

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

16 (i) Six members of the State Board shall constitute a
17 quorum. The affirmative vote of 6 of the members of the State
18 Board shall be necessary for any action requiring a vote to be
19 taken by the State Board. A vacancy in the membership of the
20 State Board shall not impair the right of a quorum to exercise
21 all the rights and perform all the duties of the State Board as
22 provided by this Act.

23 (j) A State Board member shall disqualify himself or
24 herself from the consideration of any application for a permit
25 or exemption in which the State Board member or the State Board
26 member's spouse, parent, sibling, or child: (i) has an

1 economic interest in the matter; or (ii) is employed by,
2 serves as a consultant for, or is a member of the governing
3 board of the applicant or a party opposing the application.

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

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

7 (20 ILCS 3960/4.2)

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

9 Sec. 4.2. Ex parte communications.

10 (a) Except in the disposition of matters that agencies are
11 authorized by law to entertain or dispose of on an ex parte
12 basis including, but not limited to rulemaking, the State
13 Board, any State Board member, employee, or a hearing officer
14 shall not engage in ex parte communication in connection with
15 the substance of any formally filed application for a permit
16 with any person or party or the representative of any party.
17 This subsection (a) applies when the Board, member, employee,
18 or administrative law judge ~~hearing officer~~ knows, or should
19 know upon reasonable inquiry, that the application or
20 exemption has been formally filed with the State Board.
21 Nothing in this Section shall prohibit State Board employees
22 ~~staff members~~ from providing technical assistance to
23 applicants. Nothing in this Section shall prohibit State Board
24 employees ~~staff~~ from verifying or clarifying an applicant's
25 information as it prepares the State Board Staff Report. Once

1 an application for permit or exemption is filed and deemed
2 complete, a written record of any communication between State
3 Board employees ~~staff~~ and an applicant shall be prepared by
4 staff and made part of the public record, using a prescribed,
5 standardized format, and shall be included in the application
6 file.

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

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

19 (d) "Ex parte communication" means any written or oral ~~a~~
20 communication ~~between a person who is not a State Board member~~
21 ~~or employee and a State Board member or employee~~ that imparts
22 or requests material information or makes a material argument
23 regarding potential action ~~reflects~~ on the substance of a
24 pending or impending permit or exemption application or State
25 Board proceeding and that takes place outside the open record
26 of the proceeding. "Ex parte communication" does not include:

1 (i) statements by a person publicly made in a public forum;
2 (ii) statements regarding matters of procedure and practice,
3 such as the format of application materials, the number of
4 copies required, the manner of filing, and the status of a
5 matter; and (iii) statements made between a State Board member
6 or employee and another State Board member or employee.
7 ~~Communications regarding matters of procedure and practice,~~
8 ~~such as the format of pleading, number of copies required,~~
9 ~~manner of service, and status of proceedings, are not~~
10 ~~considered ex parte communications.~~ Technical assistance with
11 respect to an application, not intended to influence any
12 decision on the application, may be provided by employees to
13 the applicant. Any technical assistance shall be documented in
14 writing by the applicant and employees within 10 business days
15 after the technical assistance is provided and made part of
16 the open record.

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

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

26 (g) Nothing in this Section shall be construed to prevent

1 the State Board or any member of the State Board from
2 consulting with the attorney for the State Board.

3 (Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18;
4 101-81, eff. 7-12-19.)

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

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

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

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

18 The State Board may, by rule, delegate authority to the
19 Chairman to grant permits or exemptions when applications meet
20 all of the State Board's review criteria and are unopposed.

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

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

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

3 (c) changes the bed capacity of a health care facility
4 by increasing the total number of beds or by distributing
5 beds among various categories of service or by relocating
6 beds from one physical facility or site to another by more
7 than 20 beds or more than 10% of total bed capacity as
8 defined by the State Board, whichever is less, over a
9 2-year period.

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

22 A permit holder must do the following: (i) submit the
23 final completion and cost report for the project within 90
24 days after the approved project completion date or extension
25 date and (ii) submit annual progress reports no earlier than
26 30 days before and no later than 30 days after each anniversary

1 date of the Board's approval of the permit until the project is
2 completed. To maintain a valid permit and to monitor progress
3 toward project commencement and completion, routine
4 post-permit reports shall be limited to annual progress
5 reports and the final completion and cost report. Annual
6 progress reports shall include information regarding the
7 committed funds expended toward the approved project. For
8 projects to be completed in 12 months or less, the permit
9 holder shall report financial commitment in the final
10 completion and cost report. For projects to be completed
11 between 12 to 24 months, the permit holder shall report
12 financial commitment in the first annual report. For projects
13 to be completed in more than 24 months, the permit holder shall
14 report financial commitment in the second annual progress
15 report. The report shall contain information regarding
16 expenditures and financial commitments. The State Board may
17 extend the financial commitment period after considering a
18 permit holder's showing of good cause and request for
19 additional time to complete the project. The State Board may
20 approve the transfer of an existing permit without regard to
21 whether the permit to be transferred has been financially
22 committed, except for permits to establish a new facility or
23 category of service.

24 The permit ~~Certificate of Need~~ process required under this
25 Act is designed to restrain rising health care costs by
26 preventing unnecessary construction or modification of health

1 care facilities. The Board must assure that the establishment,
2 construction, or modification of a health care facility or the
3 acquisition of major medical equipment is consistent with the
4 public interest and that the proposed project is consistent
5 with the orderly and economic development or acquisition of
6 those facilities and equipment and is in accord with the
7 standards, criteria, or plans of need adopted and approved by
8 the Board. Board decisions regarding the construction of
9 health care facilities must consider capacity, quality, value,
10 and equity. Projects may deviate from the costs, fees, and
11 expenses provided in their project cost information for the
12 project's cost components, provided that the final total
13 project cost does not exceed the approved permit amount.
14 Project alterations shall not increase the total approved
15 permit amount by more than the limit set forth under the
16 Board's rules.

17 The acquisition by any person of major medical equipment
18 that will not be owned by or located in a health care facility
19 and that will not be used to provide services to inpatients of
20 a health care facility shall be exempt from review provided
21 that a notice is filed in accordance with exemption
22 requirements.

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

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

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

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

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

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

13 (b) The State Board shall establish by regulation the
14 procedures and requirements regarding issuance of exemptions.
15 An exemption shall be approved when information required by
16 the Board by rule is submitted. Projects eligible for an
17 exemption, rather than a permit, include, but are not limited
18 to, change of ownership of a health care facility and
19 discontinuation of a category of service, other than a health
20 care facility maintained by the State or any agency or
21 department thereof or a nursing home maintained by a county.
22 The Board may accept an application for an exemption for the
23 discontinuation of a category of service at a health care
24 facility only once in a 6-month period following (1) the
25 previous application for exemption at the same health care

1 facility or (2) the final decision of the Board regarding the
2 discontinuation of a category of service at the same health
3 care facility, whichever occurs later. A discontinuation of a
4 category of service shall otherwise require an application for
5 a permit if an application for an exemption has already been
6 approved ~~accepted~~ within the 6-month period. For a change of
7 ownership among related persons of a health care facility, the
8 State Board shall provide by rule for an expedited process for
9 obtaining an exemption. For the purposes of this Section,
10 "change of ownership among related persons" means a
11 transaction in which the parties to the transaction are under
12 common control or ownership before and after the transaction
13 is complete.

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

16 (c-5) Any written review or findings of the Board staff
17 set forth in the State Board Staff Report concerning an
18 application for a permit must be made available to the public
19 and the applicant at least 14 calendar days before the meeting
20 of the State Board at which the review or findings are
21 considered. The applicant and members of the public may
22 submit, to the State Board, written responses regarding the
23 facts set forth in the review or findings of the Board staff.
24 Members of the public and the applicant shall have until 10
25 days before the meeting of the State Board to submit any
26 written response concerning the Board staff's written review

1 or findings. The Board staff may revise any findings to
2 address corrections of factual errors cited in the public
3 response. At the meeting, the State Board may, in its
4 discretion, permit the submission of other additional written
5 materials.

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

1 (Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18;
2 101-83, eff. 7-15-19.)

3 (20 ILCS 3960/6.2)

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

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

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

17 (b) The State Board staff shall afford a reasonable amount
18 of time as established by the State Board, but not to exceed
19 120 days, for the review of the application. The 120-day
20 period begins on the day the application is found to be
21 substantially complete, as that term is defined by the State
22 Board. During the 120-day period, the applicant may request an
23 extension. An applicant may modify the application, as
24 established by the State Board by rule, at any time before a
25 final administrative decision has been made on the

1 application.

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

5 (c) When an application for an exemption or a permit is
6 initially reviewed by State Board staff, as provided in this
7 Section, the State Board shall, upon request by the applicant
8 or an interested person, afford an opportunity for a public
9 hearing within a reasonable amount of time after receipt of
10 the complete application, but not to exceed 90 days after
11 receipt of the complete application. Notice of the hearing
12 shall be made promptly, not less than 10 business days before
13 the hearing, by certified mail to the applicant and, not less
14 than 10 business days before the hearing, by publication on
15 the State Board's website, in the principal office and
16 website, if available, of the local government ~~a newspaper of~~
17 ~~general circulation~~ in the area or community to be affected,
18 and in the location where the meeting is to be held. The
19 hearing shall be held in the area or community in which the
20 proposed project is to be located and shall be for the purpose
21 of allowing the applicant and any interested person to present
22 public testimony concerning the approval, denial, renewal, or
23 revocation of the permit or exemption. All interested persons
24 attending the hearing shall be given a reasonable opportunity
25 to present their views or arguments in writing or orally, and a
26 record of all of the testimony shall accompany any findings of

1 the State Board staff. The State Board shall adopt reasonable
2 rules and regulations governing the procedure and conduct of
3 the hearings.

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

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

8 (20 ILCS 3960/8.5)

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

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

13 (a) Upon a finding that an application for a change of
14 ownership is complete, the State Board shall publish a ~~legal~~
15 notice ~~on 3 consecutive days~~ on the State Board's website and
16 in the principal office and website, if available, of the
17 local government in the area or community to be affected ~~in a~~
18 ~~newspaper of general circulation in the area or community to~~
19 ~~be affected~~ and afford the public an opportunity to request a
20 hearing. ~~If the application is for a facility located in a~~
21 ~~Metropolitan Statistical Area, an additional legal notice~~
22 ~~shall be published in a newspaper of limited circulation, if~~
23 ~~one exists, in the area in which the facility is located. If~~
24 ~~the newspaper of limited circulation is published on a daily~~
25 ~~basis, the additional legal notice shall be published on 3~~

1 ~~consecutive days. The applicant shall pay the cost incurred by~~
2 ~~the Board in publishing the change of ownership notice in~~
3 ~~newspapers as required under this subsection. The legal notice~~
4 shall also be ~~posted on the Health Facilities and Services~~
5 ~~Review Board's web site and~~ sent to the State Representative
6 and State Senator of the district in which the health care
7 facility is located and to the Office of the Attorney General.
8 An application for change of ownership of a hospital shall not
9 be deemed complete without a signed certification that for a
10 period of 2 years after the change of ownership transaction is
11 effective, the hospital will not adopt a charity care policy
12 that is more restrictive than the policy in effect during the
13 year prior to the transaction. An application for a change of
14 ownership need not contain signed transaction documents so
15 long as it includes the following key terms of the
16 transaction: names and background of the parties; structure of
17 the transaction; the person who will be the licensed or
18 certified entity after the transaction; the ownership or
19 membership interests in such licensed or certified entity both
20 prior to and after the transaction; fair market value of
21 assets to be transferred; and the purchase price or other form
22 of consideration to be provided for those assets. The issuance
23 of the certificate of exemption shall be contingent upon the
24 applicant submitting a statement to the Board within 90 days
25 after the closing date of the transaction, or such longer
26 period as provided by the Board, certifying that the change of

1 ownership has been completed in accordance with the key terms
2 contained in the application. If such key terms of the
3 transaction change, a new application shall be required.

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

23 Nothing in this Act shall be construed as authorizing the
24 Board to impose any conditions, obligations, or limitations,
25 other than those required by this Section, with respect to the
26 issuance of an exemption for a change of ownership, including,

1 but not limited to, the time period before which a subsequent
2 change of ownership of the health care facility could be
3 sought, or the commitment to continue to offer for a specified
4 time period any services currently offered by the health care
5 facility.

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

8 (a-3) (Blank).

9 (a-5) If a public hearing is requested, it shall be held at
10 least 15, but not more than 30 calendar days, after issuance of
11 the notice in the community in which the facility is located.
12 The hearing shall be held in the affected area or community in
13 a place of reasonable size and accessibility and a full and
14 complete written transcript of the proceedings shall be made.
15 All interested persons attending the hearing shall be given a
16 reasonable opportunity to present their positions in writing
17 or orally. The applicant shall provide a summary or describe
18 the proposed change of ownership at the public hearing. Upon a
19 finding that an application to discontinue a category of
20 service is complete and provides the requested information, as
21 specified by the State Board, an exemption shall be issued. No
22 later than 30 days after the approval ~~issuance~~ of the
23 exemption by the State Board, the health care facility must
24 give written notice of the discontinuation of the category of
25 service to the State Senator and State Representative serving
26 the legislative district in which the health care facility is

1 located. No later than 90 days after a discontinuation of a
2 category of service, the applicant must submit a statement to
3 the State Board certifying that the discontinuation is
4 complete.

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

16 (c) (Blank). ~~For the purposes of this Section "newspaper~~
17 ~~of limited circulation" means a newspaper intended to serve a~~
18 ~~particular or defined population of a specific geographic area~~
19 ~~within a Metropolitan Statistical Area such as a municipality,~~
20 ~~town, village, township, or community area, but does not~~
21 ~~include publications of professional and trade associations.~~

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

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

1 (20 ILCS 3960/8.7)

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

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

6 (a) Upon a finding that an application to discontinue
7 ~~close~~ a health care facility or discontinue a category of
8 service is complete, the State Board shall publish a ~~legal~~
9 notice on the State Board's website and in the principal
10 office and website, if available, of the local government in
11 the area or community to be affected ~~3 consecutive days in a~~
12 ~~newspaper of general circulation in the area or community to~~
13 ~~be affected~~ and afford the public an opportunity to request a
14 hearing. ~~If the application is for a facility located in a~~
15 ~~Metropolitan Statistical Area, an additional legal notice~~
16 ~~shall be published in a newspaper of limited circulation, if~~
17 ~~one exists, in the area in which the facility is located. If~~
18 ~~the newspaper of limited circulation is published on a daily~~
19 ~~basis, the additional legal notice shall be published on 3~~
20 ~~consecutive days.~~ The ~~legal~~ notice shall also be ~~posted on the~~
21 ~~Health Facilities and Services Review Board's website and sent~~
22 to the State Representative and State Senator of the district
23 in which the health care facility is located. In addition, the
24 health care facility shall provide notice of closure to the
25 local media that the health care facility would routinely

1 notify about facility events.

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

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

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

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

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

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

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

5 (Source: P.A. 101-83, eff. 7-15-19; 101-650, eff. 7-7-20;
6 102-4, eff. 4-27-21.)

7 (20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)

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

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

19 Subsequent to an appearance by the applicant before the
20 State Board or default of such opportunity to appear, a motion
21 by the State Board to approve an application for a permit which
22 fails to pass shall be considered an initial denial of the
23 application for a permit, as the case may be. Such action of an
24 initial denial or an action by the State Board to revoke a
25 permit shall be communicated to the applicant or holder of the

1 permit. Such person or organization shall be afforded an
2 opportunity for a hearing before an administrative law judge,
3 who is appointed by the Chairman of the State Board. A written
4 notice of a request for such hearing shall be served upon the
5 Chairman of the State Board or the Agency within 30 days
6 following notification of the decision of the State Board. The
7 administrative law judge shall take actions necessary to
8 ensure that the hearing is completed within a reasonable
9 period of time, but not to exceed 120 days, except for delays
10 or continuances agreed to by the person requesting the
11 hearing. Following its consideration of the report of the
12 hearing, or upon default of the party to the hearing, the State
13 Board shall make its final determination, specifying its
14 findings and conclusions within 90 days of receiving the
15 written report of the hearing. A copy of such determination
16 shall be sent by certified mail or served personally upon the
17 party.

18 A full and complete record shall be kept of all
19 administrative hearing proceedings, including the notice of
20 hearing, complaint, and all other documents in the nature of
21 pleadings, written motions filed in the proceedings, and the
22 report and orders of the State Board or hearing officer. All
23 testimony shall be reported by either a court reporter or some
24 other reliable means of recording but need not be transcribed
25 unless the decision is appealed in accordance with the
26 Administrative Review Law, as now or hereafter amended. A copy

1 or copies of the administrative hearing transcript may be
2 obtained by any ~~interested~~ party granted the right to
3 intervene on payment of the cost of preparing such copy or
4 copies.

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

17 When the witness is subpoenaed at the instance of the
18 State Board, or its administrative law judge ~~hearing officer~~,
19 such fees shall be paid in the same manner as other expenses of
20 the State Board, and when the witness is subpoenaed at the
21 instance of any other party to any such proceeding the State
22 Board may, in accordance with its rules, require that the cost
23 of service of the subpoena or subpoena duces tecum and the fee
24 of the witness be borne by the party at whose instance the
25 witness is summoned. In such case, the State Board in its
26 discretion, may require a deposit to cover the cost of such

1 service and witness fees. A subpoena or subpoena duces tecum
2 so issued shall be served in the same manner as a subpoena
3 issued out of a court.

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

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

15 (20 ILCS 3960/11) (from Ch. 111 1/2, par. 1161)

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

17 Sec. 11. Any person who is adversely affected by a final
18 decision of the State Board may have such decision judicially
19 reviewed. The provisions of the Administrative Review Law, as
20 now or hereafter amended, and the rules adopted pursuant
21 thereto shall apply to and govern all proceedings for the
22 judicial review of final administrative decisions of the State
23 Board. The term "administrative decisions" is as defined in
24 Section 3-101 of the Code of Civil Procedure. In order to
25 comply with subsection (b) of Section 3-108 of the

1 Administrative Review Law of the Code of Civil Procedure, upon
2 the filing of an administrative judicial review action, the
3 State Board shall transcribe each State Board meeting using a
4 certified court reporter. The transcript shall contain the
5 record of the findings and decisions of the State Board.

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

7 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

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

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

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

25 (3) (Blank).

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

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

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

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

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

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

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

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

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

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

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

25 (5) Coordinate with other state agencies having
26 responsibilities affecting health care facilities,

1 including those of licensure and cost reporting.

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

7 (7) (Blank).

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

14 Substantive projects shall include no more than the
15 following:

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

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

26 (c) Projects proposing a change in the bed

1 capacity of a health care facility by an increase in
2 the total number of beds or by a redistribution of beds
3 among various categories of service or by a relocation
4 of beds from one physical facility or site to another
5 by more than 20 beds or more than 10% of total bed
6 capacity, as defined by the State Board, whichever is
7 less, over a 2-year period.

8 The Chairman may approve applications for exemption
9 that meet the criteria set forth in rules or refer them to
10 the full Board. The Chairman may approve any unopposed
11 application for permit that meets all of the review
12 criteria or refer them to the full Board.

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

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

26 (10) Prescribe rules, regulations, standards and

1 criteria for the conduct of an expeditious review, not
2 exceeding 60 days, of applications for permits for
3 projects to construct or modify health care facilities
4 which are needed for the care and treatment of persons who
5 have acquired immunodeficiency syndrome (AIDS) or related
6 conditions.

7 (10.5) Provide its basis or rationale when voting on
8 an item before it at a State Board meeting in order to
9 comply with subsection (b) of Section 3-108 of the Code of
10 Civil Procedure.

11 (11) If the State Board denies or fails to approve an
12 application for permit or exemption, the State Board
13 shall, upon request by the applicant, include in the final
14 decision a detailed explanation as to why the application
15 was denied and identify what specific criteria or
16 standards the applicant did not fulfill. ~~Issue written~~
17 ~~decisions upon request of the applicant or an adversely~~
18 ~~affected party to the Board.~~ Requests for a written
19 decision shall be made within 15 days after the State
20 Board meeting in which a final decision has been made. A
21 "final decision" for purposes of this Act is the decision
22 to approve or deny an application, or take other actions
23 permitted under this Act, at the time and date of the
24 meeting that such action is scheduled by the State Board.
25 The transcript of the State Board meeting shall be the
26 basis for the written decision and will be incorporated

1 into the State Board's final decision. The staff of the
2 State Board shall prepare a written copy of the final
3 decision and the State Board shall approve a final copy
4 for inclusion in the formal record. The State Board shall
5 consider, for approval, the written draft of the final
6 decision no later than the next scheduled State Board
7 meeting. The written decision shall identify the
8 applicable criteria and factors listed in this Act and the
9 State Board's regulations that were taken into
10 consideration by the State Board when coming to a final
11 decision. ~~If the Board denies or fails to approve an~~
12 ~~application for permit or exemption, the Board shall~~
13 ~~include in the final decision a detailed explanation as to~~
14 ~~why the application was denied and identify what specific~~
15 ~~criteria or standards the applicant did not fulfill.~~

16 (12) (Blank).

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

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

22 (15) Establish a separate set of rules and guidelines
23 for long-term care that recognizes that nursing homes are
24 a different business line and service model from other
25 regulated facilities. An open and transparent process
26 shall be developed that considers the following: how

1 skilled nursing fits in the continuum of care with other
2 care providers, modernization of nursing homes,
3 establishment of more private rooms, development of
4 alternative services, and current trends in long-term care
5 services. The Chairman of the Board shall appoint a
6 permanent Health Services Review Board Long-term Care
7 Facility Advisory Subcommittee that shall develop and
8 recommend to the Board the rules to be established by the
9 Board under this paragraph (15). The Subcommittee shall
10 also provide continuous review and commentary on policies
11 and procedures relative to long-term care and the review
12 of related projects. The Subcommittee shall make
13 recommendations to the Board no later than January 1, 2016
14 and every January thereafter pursuant to the
15 Subcommittee's responsibility for the continuous review
16 and commentary on policies and procedures relative to
17 long-term care. In consultation with other experts from
18 the health field of long-term care, the Board and the
19 Subcommittee shall study new approaches to the current bed
20 need formula and Health Service Area boundaries to
21 encourage flexibility and innovation in design models
22 reflective of the changing long-term care marketplace and
23 consumer preferences and submit its recommendations to the
24 Chairman of the Board no later than January 1, 2017. The
25 Subcommittee shall evaluate, and make recommendations to
26 the State Board regarding, the buying, selling, and

1 exchange of beds between long-term care facilities within
2 a specified geographic area or drive time. The Board shall
3 file the proposed related administrative rules for the
4 separate rules and guidelines for long-term care required
5 by this paragraph (15) by no later than September 30,
6 2011. The Subcommittee shall be provided a reasonable and
7 timely opportunity to review and comment on any review,
8 revision, or updating of the criteria, standards,
9 procedures, and rules used to evaluate project
10 applications as provided under Section 12.3 of this Act.

11 The Chairman of the Board shall appoint voting members
12 of the Subcommittee, who shall serve for a period of 3
13 years, with one-third of the terms expiring each January,
14 to be determined by lot. Appointees shall include, but not
15 be limited to, recommendations from each of the 3
16 statewide long-term care associations, with an equal
17 number to be appointed from each. Compliance with this
18 provision shall be through the appointment and
19 reappointment process. All appointees serving as of April
20 1, 2015 shall serve to the end of their term as determined
21 by lot or until the appointee voluntarily resigns,
22 whichever is earlier.

23 One representative from the Department of Public
24 Health, the Department of Healthcare and Family Services,
25 the Department on Aging, and the Department of Human
26 Services may each serve as an ex-officio non-voting member

1 of the Subcommittee. The Chairman of the Board shall
2 select a Subcommittee Chair, who shall serve for a period
3 of 3 years.

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

14 (17) Establish a separate set of rules and guidelines
15 for facilities licensed under the Specialized Mental
16 Health Rehabilitation Act of 2013. An application for the
17 re-establishment of a facility in connection with the
18 relocation of the facility shall not be granted unless the
19 applicant has a contractual relationship with at least one
20 hospital to provide emergency and inpatient mental health
21 services required by facility consumers, and at least one
22 community mental health agency to provide oversight and
23 assistance to facility consumers while living in the
24 facility, and appropriate services, including case
25 management, to assist them to prepare for discharge and
26 reside stably in the community thereafter. No new

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

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

19 (Source: P.A. 100-518, eff. 6-1-18; 100-681, eff. 8-3-18;
20 101-83, eff. 7-15-19.)

21 (20 ILCS 3960/12.2)

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

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

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

5 (1.5) Post the following on the Board's web site:
6 relevant (i) rules, (ii) standards, (iii) criteria, (iv)
7 State norms, (v) references used by Board staff in making
8 determinations about whether application criteria are met,
9 and (vi) notices of project-related filings, including
10 notice of public comments related to the application.

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

22 (2.1) Publish the following reports on the State Board
23 website:

24 (A) An annual accounting, aggregated by category
25 and with names of parties redacted, of fees, fines,
26 and other revenue collected as well as expenses

1 incurred, in the administration of this Act.

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

7 (C) (Blank).

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

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

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

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

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

24 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

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

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

14 Any circuit court of this State, upon the application of
15 the State Board or upon the application of any proper party to
16 such proceedings, may, in its discretion, compel the
17 attendance of witnesses, the production of books, papers,
18 records, or memoranda and the giving of testimony before the
19 State Board, by a proceeding as for contempt, or otherwise, in
20 the same manner as production of evidence may be compelled
21 before the court.

22 The State Board shall require all health facilities
23 operating in this State to provide such reasonable reports at
24 such times and containing such information as is needed by it
25 to carry out the purposes and provisions of this Act. Prior to
26 collecting information from health facilities, the State Board

1 shall make reasonable efforts through a public process to
2 consult with health facilities and associations that represent
3 them to determine whether data and information requests will
4 result in useful information for health planning, whether
5 sufficient information is available from other sources, and
6 whether data requested is routinely collected by health
7 facilities and is available without retrospective record
8 review. Data and information requests shall not impose undue
9 paperwork burdens on health care facilities and personnel.
10 Health facilities not complying with this requirement shall be
11 reported to licensing, accrediting, certifying, or payment
12 agencies as being in violation of State law. Health care
13 facilities and other parties at interest shall have reasonable
14 access, under rules established by the State Board, to all
15 planning information submitted in accord with this Act
16 pertaining to their area.

17 Among the reports to be required by the State Board are
18 facility questionnaires for health care facilities licensed
19 under the Ambulatory Surgical Treatment Center Act, the
20 Hospital Licensing Act, the Nursing Home Care Act, the ID/DD
21 Community Care Act, the MC/DD Act, or the Specialized Mental
22 Health Rehabilitation Act of 2013 and health care facilities
23 that are required to meet the requirements of 42 CFR 494 in
24 order to be certified for participation in Medicare and
25 Medicaid under Titles XVIII and XIX of the federal Social
26 Security Act. These questionnaires shall be conducted on an

1 annual basis and compiled by the State Board. For health care
2 facilities licensed under the Nursing Home Care Act or the
3 Specialized Mental Health Rehabilitation Act of 2013, these
4 reports shall include, but not be limited to, the
5 identification of specialty services provided by the facility
6 to patients, residents, and the community at large. Annual
7 reports for facilities licensed under the ID/DD Community Care
8 Act and facilities licensed under the MC/DD Act shall be
9 different from the annual reports required of other health
10 care facilities and shall be specific to those facilities
11 licensed under the ID/DD Community Care Act or the MC/DD Act.
12 The Health Facilities and Services Review Board shall consult
13 with associations representing facilities licensed under the
14 ID/DD Community Care Act and associations representing
15 facilities licensed under the MC/DD Act when developing the
16 information requested in these annual reports. For health care
17 facilities that contain long term care beds, the reports shall
18 also include the number of staffed long term care beds,
19 physical capacity for long term care beds at the facility, and
20 long term care beds available for immediate occupancy. For
21 purposes of this paragraph, "long term care beds" means beds
22 (i) licensed under the Nursing Home Care Act, (ii) licensed
23 under the ID/DD Community Care Act, (iii) licensed under the
24 MC/DD Act, (iv) licensed under the Hospital Licensing Act, or
25 (v) licensed under the Specialized Mental Health
26 Rehabilitation Act of 2013 and certified as skilled nursing or

1 nursing facility beds under Medicaid or Medicare.

2 (Source: P.A. 100-681, eff. 8-3-18; 100-957, eff. 8-19-18;

3 101-81, eff. 7-12-19.)