



## 100TH GENERAL ASSEMBLY

### State of Illinois

#### 2017 and 2018

#### HB0763

by Rep. William Davis

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
20 ILCS 3960/4.2	
20 ILCS 3960/5	from Ch. 111 1/2, par. 1155
20 ILCS 3960/5.4	
20 ILCS 3960/6	from Ch. 111 1/2, par. 1156
20 ILCS 3960/12	from Ch. 111 1/2, par. 1162

Amends the Illinois Health Facilities Planning Act. Provides for specified financial commitment reporting requirements for completion of projects under the Act. Removes reviewing organizations other than State Board staff from the requirement of making any written review or findings concerning an application for a permit available to the public at least 14 calendar days before the meeting of the State Board at which the review or findings are considered. Provides that substantive projects under the Act, in addition to other specified substantive projects, shall include discontinuation of a State-owned healthcare facility (currently, discontinuation of service within an existing healthcare facility) and relocation of an end stage renal facility. Provides that a State Board Staff Report shall pertain to applications for extension of the financial commitment period (currently, obligation period), in addition to other specified applications. Defines "financial commitment". Makes other technical changes.

LRB100 03954 RJF 13959 b

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Health Facilities Planning Act is  
5 amended by changing Sections 3, 4.2, 5, 5.4, 6, and 12 as  
6 follows:

7 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

8 (Section scheduled to be repealed on December 31, 2019)

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

10 "Health care facilities" means and includes the following  
11 facilities, organizations, and related persons:

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

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

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

20 (A) If a demonstration project under the Nursing  
21 Home Care Act applies for a certificate of need to  
22 convert to a nursing facility, it shall meet the  
23 licensure and certificate of need requirements in

1 effect as of the date of application.

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

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

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

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

24 (5) Kidney disease treatment centers, including a  
25 free-standing hemodialysis unit required to be licensed  
26 under the End Stage Renal Disease Facility Act.

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

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

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

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

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

24          (8) An institution, place, building, or room housing  
25          major medical equipment used in the direct clinical  
26          diagnosis or treatment of patients, and whose project cost

1 is in excess of the capital expenditure minimum.

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

4 (1) Federally-owned facilities.

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

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

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

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

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

26 (7) The closure of an entity or a portion of an entity

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

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

21 With the exception of those health care facilities  
22 specifically included in this Section, nothing in this Act  
23 shall be intended to include facilities operated as a part of  
24 the practice of a physician or other licensed health care  
25 professional, whether practicing in his individual capacity or  
26 within the legal structure of any partnership, medical or

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

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

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

1 financing of any type of health care facility, or (d) who is or  
2 ever has been a member of the immediate family of the person  
3 defined by (a), (b), or (c).

4 "State Board" or "Board" means the Health Facilities and  
5 Services Review Board.

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

21 "Establish" means the construction of a health care  
22 facility or the replacement of an existing facility on another  
23 site or the initiation of a category of service.

24 "Major medical equipment" means medical equipment which is  
25 used for the provision of medical and other health services and  
26 which costs in excess of the capital expenditure minimum,



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

12 "Capital Expenditure" means an expenditure: (A) made by or  
13 on behalf of a health care facility (as such a facility is  
14 defined in this Act); and (B) which under generally accepted  
15 accounting principles is not properly chargeable as an expense  
16 of operation and maintenance, or is made to obtain by lease or  
17 comparable arrangement any facility or part thereof or any  
18 equipment for a facility or part; and which exceeds the capital  
19 expenditure minimum.

20 For the purpose of this paragraph, the cost of any studies,  
21 surveys, designs, plans, working drawings, specifications, and  
22 other activities essential to the acquisition, improvement,  
23 expansion, or replacement of any plant or equipment with  
24 respect to which an expenditure is made shall be included in  
25 determining if such expenditure exceeds the capital  
26 expenditures minimum. Unless otherwise interdependent, or

1 submitted as one project by the applicant, components of  
2 construction or modification undertaken by means of a single  
3 construction contract or financed through the issuance of a  
4 single debt instrument shall not be grouped together as one  
5 project. Donations of equipment or facilities to a health care  
6 facility which if acquired directly by such facility would be  
7 subject to review under this Act shall be considered capital  
8 expenditures, and a transfer of equipment or facilities for  
9 less than fair market value shall be considered a capital  
10 expenditure for purposes of this Act if a transfer of the  
11 equipment or facilities at fair market value would be subject  
12 to review.

13 "Capital expenditure minimum" means \$11,500,000 for  
14 projects by hospital applicants, \$6,500,000 for applicants for  
15 projects related to skilled and intermediate care long-term  
16 care facilities licensed under the Nursing Home Care Act, and  
17 \$3,000,000 for projects by all other applicants, which shall be  
18 annually adjusted to reflect the increase in construction costs  
19 due to inflation, for major medical equipment and for all other  
20 capital expenditures.

21 "Financial Commitment" means the commitment of at least 33%  
22 of total funds assigned to cover total project cost, which  
23 occurs by the actual expenditure of 33% or more of the total  
24 project cost or the commitment to expend 33% or more of the  
25 total project cost by signed contracts or other legal means.

26 "Non-clinical service area" means an area (i) for the

1 benefit of the patients, visitors, staff, or employees of a  
2 health care facility and (ii) not directly related to the  
3 diagnosis, treatment, or rehabilitation of persons receiving  
4 services from the health care facility. "Non-clinical service  
5 areas" include, but are not limited to, chapels; gift shops;  
6 news stands; computer systems; tunnels, walkways, and  
7 elevators; telephone systems; projects to comply with life  
8 safety codes; educational facilities; student housing;  
9 patient, employee, staff, and visitor dining areas;  
10 administration and volunteer offices; modernization of  
11 structural components (such as roof replacement and masonry  
12 work); boiler repair or replacement; vehicle maintenance and  
13 storage facilities; parking facilities; mechanical systems for  
14 heating, ventilation, and air conditioning; loading docks; and  
15 repair or replacement of carpeting, tile, wall coverings,  
16 window coverings or treatments, or furniture. Solely for the  
17 purpose of this definition, "non-clinical service area" does  
18 not include health and fitness centers.

19 "Areawide" means a major area of the State delineated on a  
20 geographic, demographic, and functional basis for health  
21 planning and for health service and having within it one or  
22 more local areas for health planning and health service. The  
23 term "region", as contrasted with the term "subregion", and the  
24 word "area" may be used synonymously with the term "areawide".

25 "Local" means a subarea of a delineated major area that on  
26 a geographic, demographic, and functional basis may be

1 considered to be part of such major area. The term "subregion"  
2 may be used synonymously with the term "local".

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

5 "Licensed health care professional" means a person  
6 licensed to practice a health profession under pertinent  
7 licensing statutes of the State of Illinois.

8 "Director" means the Director of the Illinois Department of  
9 Public Health.

10 "Agency" or "Department" means the Illinois Department of  
11 Public Health.

12 "Alternative health care model" means a facility or program  
13 authorized under the Alternative Health Care Delivery Act.

14 "Out-of-state facility" means a person that is both (i)  
15 licensed as a hospital or as an ambulatory surgery center under  
16 the laws of another state or that qualifies as a hospital or an  
17 ambulatory surgery center under regulations adopted pursuant  
18 to the Social Security Act and (ii) not licensed under the  
19 Ambulatory Surgical Treatment Center Act, the Hospital  
20 Licensing Act, or the Nursing Home Care Act. Affiliates of  
21 out-of-state facilities shall be considered out-of-state  
22 facilities. Affiliates of Illinois licensed health care  
23 facilities 100% owned by an Illinois licensed health care  
24 facility, its parent, or Illinois physicians licensed to  
25 practice medicine in all its branches shall not be considered  
26 out-of-state facilities. Nothing in this definition shall be

1 construed to include an office or any part of an office of a  
2 physician licensed to practice medicine in all its branches in  
3 Illinois that is not required to be licensed under the  
4 Ambulatory Surgical Treatment Center Act.

5 "Change of ownership of a health care facility" means a  
6 change in the person who has ownership or control of a health  
7 care facility's physical plant and capital assets. A change in  
8 ownership is indicated by the following transactions: sale,  
9 transfer, acquisition, lease, change of sponsorship, or other  
10 means of transferring control.

11 "Related person" means any person that: (i) is at least 50%  
12 owned, directly or indirectly, by either the health care  
13 facility or a person owning, directly or indirectly, at least  
14 50% of the health care facility; or (ii) owns, directly or  
15 indirectly, at least 50% of the health care facility.

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

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

22 "Category of service" means a grouping by generic class of  
23 various types or levels of support functions, equipment, care,  
24 or treatment provided to patients or residents, including, but  
25 not limited to, classes such as medical-surgical, pediatrics,  
26 or cardiac catheterization. A category of service may include

1 subcategories or levels of care that identify a particular  
2 degree or type of care within the category of service. Nothing  
3 in this definition shall be construed to include the practice  
4 of a physician or other licensed health care professional while  
5 functioning in an office providing for the care, diagnosis, or  
6 treatment of patients. A category of service that is subject to  
7 the Board's jurisdiction must be designated in rules adopted by  
8 the Board.

9 "State Board Staff Report" means the document that sets  
10 forth the review and findings of the State Board staff, as  
11 prescribed by the State Board, regarding applications subject  
12 to Board jurisdiction.

13 (Source: P.A. 98-414, eff. 1-1-14; 98-629, eff. 1-1-15; 98-651,  
14 eff. 6-16-14; 98-1086, eff. 8-26-14; 99-78, eff. 7-20-15;  
15 99-180, eff. 7-29-15; 99-527, eff. 1-1-17.)

16 (20 ILCS 3960/4.2)

17 (Section scheduled to be repealed on December 31, 2019)

18 Sec. 4.2. Ex parte communications.

19 (a) Except in the disposition of matters that agencies are  
20 authorized by law to entertain or dispose of on an ex parte  
21 basis including, but not limited to rule making, the State  
22 Board, any State Board member, employee, or a hearing officer  
23 shall not engage in ex parte communication in connection with  
24 the substance of any formally filed application for a permit  
25 with any person or party or the representative of any party.

1 This subsection (a) applies when the Board, member, employee,  
2 or hearing officer knows, or should know upon reasonable  
3 inquiry, that the application or exemption has been formally  
4 filed with the Board. Nothing in this Section shall prohibit  
5 staff members from providing technical assistance to  
6 applicants. Nothing in this Section shall prohibit staff from  
7 verifying or clarifying an applicant's information as it  
8 prepares the State Board Staff Report ~~staff report~~. Once an  
9 application or exemption is filed and deemed complete, a  
10 written record of any communication between staff and an  
11 applicant shall be prepared by staff and made part of the  
12 public record, using a prescribed, standardized format, and  
13 shall be included in the application file.

14 (b) A State Board member or employee may communicate with  
15 other members or employees and any State Board member or  
16 hearing officer may have the aid and advice of one or more  
17 personal assistants.

18 (c) An ex parte communication received by the State Board,  
19 any State Board member, employee, or a hearing officer shall be  
20 made a part of the record of the matter, including all written  
21 communications, all written responses to the communications,  
22 and a memorandum stating the substance of all oral  
23 communications and all responses made and the identity of each  
24 person from whom the ex parte communication was received.

25 (d) "Ex parte communication" means a communication between  
26 a person who is not a State Board member or employee and a

1 State Board member or employee that reflects on the substance  
2 of a pending or impending State Board proceeding and that takes  
3 place outside the record of the proceeding. Communications  
4 regarding matters of procedure and practice, such as the format  
5 of pleading, number of copies required, manner of service, and  
6 status of proceedings, are not considered ex parte  
7 communications. Technical assistance with respect to an  
8 application, not intended to influence any decision on the  
9 application, may be provided by employees to the applicant. Any  
10 assistance shall be documented in writing by the applicant and  
11 employees within 10 business days after the assistance is  
12 provided.

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

16 (f) The State Board, State Board member, or hearing  
17 examiner presiding over the proceeding, in the event of a  
18 violation of this Section, must take whatever action is  
19 necessary to ensure that the violation does not prejudice any  
20 party or adversely affect the fairness of the proceedings.

21 (g) Nothing in this Section shall be construed to prevent  
22 the State Board or any member of the State Board from  
23 consulting with the attorney for the State Board.

24 (Source: P.A. 96-31, eff. 6-30-09.)

25 (20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)



1 (Section scheduled to be repealed on December 31, 2019)

2 Sec. 5. Construction, modification, or establishment of  
3 health care facilities or acquisition of major medical  
4 equipment; permits or exemptions. No person shall construct,  
5 modify or establish a health care facility or acquire major  
6 medical equipment without first obtaining a permit or exemption  
7 from the State Board. The State Board shall not delegate to the  
8 staff of the State Board or any other person or entity the  
9 authority to grant permits or exemptions whenever the staff or  
10 other person or entity would be required to exercise any  
11 discretion affecting the decision to grant a permit or  
12 exemption. The State Board may, by rule, delegate authority to  
13 the Chairman to grant permits or exemptions when applications  
14 meet all of the State Board's review criteria and are  
15 unopposed.

16 A permit or exemption shall be obtained prior to the  
17 acquisition of major medical equipment or to the construction  
18 or modification of a health care facility which:

19 (a) requires a total capital expenditure in excess of  
20 the capital expenditure minimum; or

21 (b) substantially changes the scope or changes the  
22 functional operation of the facility; or

23 (c) changes the bed capacity of a health care facility  
24 by increasing the total number of beds or by distributing  
25 beds among various categories of service or by relocating  
26 beds from one physical facility or site to another by more

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

4 A permit shall be valid only for the defined construction  
5 or modifications, site, amount and person named in the  
6 application for such permit and shall not be transferable or  
7 assignable. A permit shall be valid until such time as the  
8 project has been completed, provided that the project commences  
9 and proceeds to completion with due diligence by the completion  
10 date or extension date approved by the Board.

11 A permit holder must do the following: (i) submit the final  
12 completion and cost report for the project within 90 days after  
13 the approved project completion date or extension date and (ii)  
14 submit annual progress reports no earlier than 30 days before  
15 and no later than 30 days after each anniversary date of the  
16 Board's approval of the permit until the project is completed.  
17 To maintain a valid permit and to monitor progress toward  
18 project commencement and completion, routine post-permit  
19 reports shall be limited to annual progress reports and the  
20 final completion and cost report. Annual progress reports shall  
21 include information regarding the committed funds expended  
22 toward the approved project. For projects to be completed in 12  
23 months or less, the permit holder shall report financial  
24 commitment in the final completion and cost report. For  
25 projects to be completed between 12 to 24 months, the permit  
26 holder shall report financial commitment in the first annual

1 report. For projects to be completed in more than 24 months,  
2 the permit holder shall report financial commitment in the  
3 second annual progress report. The ~~If the project is not~~  
4 ~~completed in one year, then, by the second annual report, the~~  
5 ~~permit holder shall expend 33% or more of the total project~~  
6 ~~cost or shall make a commitment to expend 33% or more of the~~  
7 ~~total project cost by signed contracts or other legal means,~~  
8 ~~and the~~ report shall contain information regarding financial  
9 commitment ~~those~~ expenditures or commitments. ~~If the project is~~  
10 ~~to be completed in one year, then the first annual report shall~~  
11 ~~contain the expenditure commitment information for the total~~  
12 ~~project cost.~~ The State Board may extend the financial  
13 ~~expenditure~~ commitment period after considering a permit  
14 holder's showing of good cause and request for additional time  
15 to complete the project.

16 The Certificate of Need process required under this Act is  
17 designed to restrain rising health care costs by preventing  
18 unnecessary construction or modification of health care  
19 facilities. The Board must assure that the establishment,  
20 construction, or modification of a health care facility or the  
21 acquisition of major medical equipment is consistent with the  
22 public interest and that the proposed project is consistent  
23 with the orderly and economic development or acquisition of  
24 those facilities and equipment and is in accord with the  
25 standards, criteria, or plans of need adopted and approved by  
26 the Board. Board decisions regarding the construction of health

1 care facilities must consider capacity, quality, value, and  
2 equity. Projects may deviate from the costs, fees, and expenses  
3 provided in their project cost information for the project's  
4 cost components, provided that the final total project cost  
5 does not exceed the approved permit amount. Project alterations  
6 shall not increase the total approved permit amount by more  
7 than the limit set forth under the Board's rules.

8 Major construction projects, for the purposes of this Act,  
9 shall include but are not limited to: projects for the  
10 construction of new buildings; additions to existing  
11 facilities; modernization projects whose cost is in excess of  
12 \$1,000,000 or 10% of the facilities' operating revenue,  
13 whichever is less; and such other projects as the State Board  
14 shall define and prescribe pursuant to this Act.

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

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

24 (Source: P.A. 97-1115, eff. 8-27-12; 98-414, eff. 1-1-14.)

1 (Section scheduled to be repealed on December 31, 2019)

2 Sec. 5.4. Safety Net Impact Statement.

3 (a) General review criteria shall include a requirement  
4 that all health care facilities, with the exception of skilled  
5 and intermediate long-term care facilities licensed under the  
6 Nursing Home Care Act, provide a Safety Net Impact Statement,  
7 which shall be filed with an application for a substantive  
8 project or when the application proposes to discontinue a  
9 category of service.

10 (b) For the purposes of this Section, "safety net services"  
11 are services provided by health care providers or organizations  
12 that deliver health care services to persons with barriers to  
13 mainstream health care due to lack of insurance, inability to  
14 pay, special needs, ethnic or cultural characteristics, or  
15 geographic isolation. Safety net service providers include,  
16 but are not limited to, hospitals and private practice  
17 physicians that provide charity care, school-based health  
18 centers, migrant health clinics, rural health clinics,  
19 federally qualified health centers, community health centers,  
20 public health departments, and community mental health  
21 centers.

22 (c) As developed by the applicant, a Safety Net Impact  
23 Statement shall describe all of the following:

24 (1) The project's material impact, if any, on essential  
25 safety net services in the community, to the extent that it  
26 is feasible for an applicant to have such knowledge.

1           (2) The project's impact on the ability of another  
2 provider or health care system to cross-subsidize safety  
3 net services, if reasonably known to the applicant.

4           (3) How the discontinuation of a facility or service  
5 might impact the remaining safety net providers in a given  
6 community, if reasonably known by the applicant.

7           (d) Safety Net Impact Statements shall also include all of  
8 the following:

9           (1) For the 3 fiscal years prior to the application, a  
10 certification describing the amount of charity care  
11 provided by the applicant. The amount calculated by  
12 hospital applicants shall be in accordance with the  
13 reporting requirements for charity care reporting in the  
14 Illinois Community Benefits Act. Non-hospital applicants  
15 shall report charity care, at cost, in accordance with an  
16 appropriate methodology specified by the Board.

17           (2) For the 3 fiscal years prior to the application, a  
18 certification of the amount of care provided to Medicaid  
19 patients. Hospital and non-hospital applicants shall  
20 provide Medicaid information in a manner consistent with  
21 the information reported each year to the State Board  
22 regarding "Inpatients and Outpatients Served by Payor  
23 Source" and "Inpatient and Outpatient Net Revenue by Payor  
24 Source" as required by the Board under Section 13 of this  
25 Act and published in the Annual Hospital Profile.

26           (3) Any information the applicant believes is directly

1 relevant to safety net services, including information  
2 regarding teaching, research, and any other service.

3 (e) The Board staff shall publish a notice, that an  
4 application accompanied by a Safety Net Impact Statement has  
5 been filed, in a newspaper having general circulation within  
6 the area affected by the application. If no newspaper has a  
7 general circulation within the county, the Board shall post the  
8 notice in 5 conspicuous places within the proposed area.

9 (f) Any person, community organization, provider, or  
10 health system or other entity wishing to comment upon or oppose  
11 the application may file a Safety Net Impact Statement Response  
12 with the Board, which shall provide additional information  
13 concerning a project's impact on safety net services in the  
14 community.

15 (g) Applicants shall be provided an opportunity to submit a  
16 reply to any Safety Net Impact Statement Response.

17 (h) The State Board Staff Report ~~staff report~~ shall include  
18 a statement as to whether a Safety Net Impact Statement was  
19 filed by the applicant and whether it included information on  
20 charity care, the amount of care provided to Medicaid patients,  
21 and information on teaching, research, or any other service  
22 provided by the applicant directly relevant to safety net  
23 services. The report shall also indicate the names of the  
24 parties submitting responses and the number of responses and  
25 replies, if any, that were filed.

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

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

2 (Section scheduled to be repealed on December 31, 2019)

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 applicant  
9 to file a Letter of Intent before an application is filed. Such  
10 application shall include affirmative evidence on which the  
11 State Board or Chairman may make its decision on the approval  
12 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 the  
16 Board by rule is submitted. Projects eligible for an exemption,  
17 rather than a permit, include, but are not limited to, change  
18 of ownership of a health care facility, discontinuation of a  
19 category of service, and discontinuation of a health care  
20 facility, other than a health care facility maintained by the  
21 State or any agency or department thereof or a nursing home  
22 maintained by a county. For a change of ownership of a health  
23 care facility, the State Board shall provide by rule for an  
24 expedited process for obtaining an exemption in accordance with  
25 Section 8.5 of this Act. In connection with a change of



1 ownership, the State Board may approve the transfer of an  
2 existing permit without regard to whether the permit to be  
3 transferred has yet been obligated, except for permits  
4 establishing a new facility or a new category of service.

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

7 (c-5) Any written review or findings of the Board staff ~~or~~  
8 ~~any other reviewing organization under Section 8~~ concerning an  
9 application for a permit must be made available to the public  
10 at least 14 calendar days before the meeting of the State Board  
11 at which the review or findings are considered. The applicant  
12 and members of the public may submit, to the State Board,  
13 written responses regarding the facts set forth in the review  
14 or findings of the Board staff or reviewing organization.  
15 Members of the public shall have until 10 days before the  
16 meeting of the State Board to submit any written response  
17 concerning the Board staff's written review or findings. The  
18 Board staff may revise any findings to address corrections of  
19 factual errors cited in the public response. At the meeting,  
20 the State Board may, in its discretion, permit the submission  
21 of other additional written materials.

22 (d) Upon receipt of an application for a permit, the State  
23 Board shall approve and authorize the issuance of a permit if  
24 it finds (1) that the applicant is fit, willing, and able to  
25 provide a proper standard of health care service for the  
26 community with particular regard to the qualification,

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

17 (Source: P.A. 99-154, eff. 7-28-15.)

18 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

19 (Section scheduled to be repealed on December 31, 2019)

20 Sec. 12. Powers and duties of State Board. For purposes of  
21 this Act, the State Board shall exercise the following powers  
22 and duties:

23 (1) Prescribe rules, regulations, standards, criteria,  
24 procedures or reviews which may vary according to the purpose  
25 for which a particular review is being conducted or the type of

1 project reviewed and which are required to carry out the  
2 provisions and purposes of this Act. Policies and procedures of  
3 the State Board shall take into consideration the priorities  
4 and needs of medically underserved areas and other health care  
5 services, giving special consideration to the impact of  
6 projects on access to safety net services.

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

10 (3) (Blank).

11 (4) Develop criteria and standards for health care  
12 facilities planning, conduct statewide inventories of health  
13 care facilities, maintain an updated inventory on the Board's  
14 web site reflecting the most recent bed and service changes and  
15 updated need determinations when new census data become  
16 available or new need formulae are adopted, and develop health  
17 care facility plans which shall be utilized in the review of  
18 applications for permit under this Act. Such health facility  
19 plans shall be coordinated by the Board with pertinent State  
20 Plans. Inventories pursuant to this Section of skilled or  
21 intermediate care facilities licensed under the Nursing Home  
22 Care Act, skilled or intermediate care facilities licensed  
23 under the ID/DD Community Care Act, skilled or intermediate  
24 care facilities licensed under the MC/DD Act, facilities  
25 licensed under the Specialized Mental Health Rehabilitation  
26 Act of 2013, or nursing homes licensed under the Hospital

1 Licensing Act shall be conducted on an annual basis no later  
2 than July 1 of each year and shall include among the  
3 information requested a list of all services provided by a  
4 facility to its residents and to the community at large and  
5 differentiate between active and inactive beds.

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

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

10 (b) The number of existing and planned facilities  
11 offering similar programs;

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

13 (d) The availability of facilities which may serve as  
14 alternatives or substitutes;

15 (e) The availability of personnel necessary to the  
16 operation of the facility;

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

19 (g) The financial and economic feasibility of proposed  
20 construction or modification; and

21 (h) In the case of health care facilities established  
22 by a religious body or denomination, the needs of the  
23 members of such religious body or denomination may be  
24 considered to be public need.

25 The health care facility plans which are developed and  
26 adopted in accordance with this Section shall form the basis

1 for the plan of the State to deal most effectively with  
2 statewide health needs in regard to health care facilities.

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

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

11 (7) The State Board shall prescribe procedures for review,  
12 standards, and criteria which shall be utilized to make  
13 periodic reviews and determinations of the appropriateness of  
14 any existing health services being rendered by health care  
15 facilities subject to the Act. The State Board shall consider  
16 recommendations of the Board in making its determinations.

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

22 Substantive ~~Six months after June 30, 2009 (the effective~~  
23 ~~date of Public Act 96-31),~~ substantive projects shall include  
24 no more than the following:

25 (a) Projects to construct (1) a new or replacement  
26 facility located on a new site or (2) a replacement

1 facility located on the same site as the original facility  
2 and the cost of the replacement facility exceeds the  
3 capital expenditure minimum, which shall be reviewed by the  
4 Board within 120 days;

5 (b) Projects proposing a (1) new service within an  
6 existing healthcare facility; ~~or~~ (2) discontinuation of a  
7 State-owned service within an existing healthcare  
8 facility, which shall be reviewed by the Board within 60  
9 days; or (3) relocation of an end stage renal facility; or

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

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

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

26 (9) Prescribe rules, regulations, standards, and criteria

1 pertaining to the granting of permits for construction and  
2 modifications which are emergent in nature and must be  
3 undertaken immediately to prevent or correct structural  
4 deficiencies or hazardous conditions that may harm or injure  
5 persons using the facility, as defined in the rules and  
6 regulations of the State Board. This procedure is exempt from  
7 public hearing requirements of this Act.

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

14 (10.5) Provide its rationale when voting on an item before  
15 it at a State Board meeting in order to comply with subsection  
16 (b) of Section 3-108 of the Code of Civil Procedure.

17 (11) Issue written decisions upon request of the applicant  
18 or an adversely affected party to the Board. Requests for a  
19 written decision shall be made within 15 days after the Board  
20 meeting in which a final decision has been made. A "final  
21 decision" for purposes of this Act is the decision to approve  
22 or deny an application, or take other actions permitted under  
23 this Act, at the time and date of the meeting that such action  
24 is scheduled by the Board. The transcript of the State Board  
25 meeting shall be incorporated into the Board's final decision.  
26 The staff of the Board shall prepare a written copy of the

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

13 (12) Require at least one of its members to participate in  
14 any public hearing, after the appointment of a majority of the  
15 members to the Board.

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

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

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



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

1 required by this paragraph (15) by no later than September 30,  
2 2011. The Subcommittee shall be provided a reasonable and  
3 timely opportunity to review and comment on any review,  
4 revision, or updating of the criteria, standards, procedures,  
5 and rules used to evaluate project applications as provided  
6 under Section 12.3 of this Act.

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

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

24 (16) Prescribe the format of the State Board Staff Report.  
25 A State Board Staff Report shall pertain to applications that  
26 include, but are not limited to, applications for permit or

1 exemption, applications for permit renewal, applications for  
2 extension of the financial commitment ~~obligation~~ period,  
3 applications requesting a declaratory ruling, or applications  
4 under the Health Care Worker Self-Referral Act. State Board  
5 Staff Reports shall compare applications to the relevant review  
6 criteria under the Board's rules.

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

1 to facilitate the goal of achieving maximum individual  
2 self-care and independence. At no time shall the total number  
3 of authorized beds under this Act in facilities licensed under  
4 the Specialized Mental Health Rehabilitation Act of 2013 exceed  
5 the number of authorized beds on June 16, 2014 (the effective  
6 date of Public Act 98-651).

7 (Source: P.A. 98-414, eff. 1-1-14; 98-463, eff. 8-16-13;  
8 98-651, eff. 6-16-14; 98-1086, eff. 8-26-14; 99-78, eff.  
9 7-20-15; 99-114, eff. 7-23-15; 99-180, eff. 7-29-15; 99-277,  
10 eff. 8-5-15; 99-527, eff. 1-1-17; 99-642, eff. 7-28-16.)