



Rep. William Davis

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1 AMENDMENT TO HOUSE BILL 763

2 AMENDMENT NO. _____. Amend House Bill 763 by replacing
3 everything after the enacting clause with the following:

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8 (Section scheduled to be repealed on December 31, 2019)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

1 Act.

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

4 (A) If a demonstration project under the Nursing
5 Home Care Act applies for a certificate of need to
6 convert to a nursing facility, it shall meet the
7 licensure and certificate of need requirements in
8 effect as of the date of application.

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

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

25 (3.7) Facilities licensed under the Specialized Mental
26 Health Rehabilitation Act of 2013.

1 (4) Hospitals, nursing homes, ambulatory surgical
2 treatment centers, or kidney disease treatment centers
3 maintained by the State or any department or agency
4 thereof.

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

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

12 (B) This Act does not apply to a dialysis unit
13 located in a licensed nursing home that offers or
14 provides dialysis-related services to residents with
15 end stage renal disease who have elected to receive
16 home dialysis within the nursing home.

17 (C) The Board, however, may require dialysis
18 facilities and licensed nursing homes under items (A)
19 and (B) of this subsection to report statistical
20 information on a quarterly basis to the Board to be
21 used by the Board to conduct analyses on the need for
22 proposed kidney disease treatment centers.

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

1 (7) An institution, place, building, or room used for
2 provision of a health care category of service, including,
3 but not limited to, cardiac catheterization and open heart
4 surgery.

5 (8) An institution, place, building, or room housing
6 major medical equipment used in the direct clinical
7 diagnosis or treatment of patients, and whose project cost
8 is in excess of the capital expenditure minimum.

9 "Health care facilities" does not include the following
10 entities or facility transactions:

11 (1) Federally-owned facilities.

12 (2) Facilities used solely for healing by prayer or
13 spiritual means.

14 (3) An existing facility located on any campus facility
15 as defined in Section 5-5.8b of the Illinois Public Aid
16 Code, provided that the campus facility encompasses 30 or
17 more contiguous acres and that the new or renovated
18 facility is intended for use by a licensed residential
19 facility.

20 (4) Facilities licensed under the Supportive
21 Residences Licensing Act or the Assisted Living and Shared
22 Housing Act.

23 (5) Facilities designated as supportive living
24 facilities that are in good standing with the program
25 established under Section 5-5.01a of the Illinois Public
26 Aid Code.

1 (6) Facilities established and operating under the
2 Alternative Health Care Delivery Act as a children's
3 community-based health care center alternative health care
4 model demonstration program or as an Alzheimer's Disease
5 Management Center alternative health care model
6 demonstration program.

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

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

1 the Nursing Home Care Act.

2 With the exception of those health care facilities
3 specifically included in this Section, nothing in this Act
4 shall be intended to include facilities operated as a part of
5 the practice of a physician or other licensed health care
6 professional, whether practicing in his individual capacity or
7 within the legal structure of any partnership, medical or
8 professional corporation, or unincorporated medical or
9 professional group. Further, this Act shall not apply to
10 physicians or other licensed health care professional's
11 practices where such practices are carried out in a portion of
12 a health care facility under contract with such health care
13 facility by a physician or by other licensed health care
14 professionals, whether practicing in his individual capacity
15 or within the legal structure of any partnership, medical or
16 professional corporation, or unincorporated medical or
17 professional groups, unless the entity constructs, modifies,
18 or establishes a health care facility as specifically defined
19 in this Section. This Act shall apply to construction or
20 modification and to establishment by such health care facility
21 of such contracted portion which is subject to facility
22 licensing requirements, irrespective of the party responsible
23 for such action or attendant financial obligation.

24 "Person" means any one or more natural persons, legal
25 entities, governmental bodies other than federal, or any
26 combination thereof.

1 "Consumer" means any person other than a person (a) whose
2 major occupation currently involves or whose official capacity
3 within the last 12 months has involved the providing,
4 administering or financing of any type of health care facility,
5 (b) who is engaged in health research or the teaching of
6 health, (c) who has a material financial interest in any
7 activity which involves the providing, administering or
8 financing of any type of health care facility, or (d) who is or
9 ever has been a member of the immediate family of the person
10 defined by (a), (b), or (c).

11 "State Board" or "Board" means the Health Facilities and
12 Services Review Board.

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

1 this Act.

2 "Establish" means the construction of a health care
3 facility or the replacement of an existing facility on another
4 site or the initiation of a category of service.

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

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

1 capital expenditures.

2 "Financial Commitment" means the commitment of at least 33%
3 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; student housing;
16 patient, employee, staff, and visitor dining areas;
17 administration and volunteer offices; modernization of
18 structural components (such as roof replacement and masonry
19 work); boiler repair or replacement; vehicle maintenance and
20 storage facilities; parking facilities; mechanical systems for
21 heating, ventilation, and air conditioning; loading docks; and
22 repair or replacement of carpeting, tile, wall coverings,
23 window coverings or treatments, or furniture. Solely for the
24 purpose of this definition, "non-clinical service area" does
25 not include health and fitness centers.

26 "Areawide" means a major area of the State delineated on a

1 geographic, demographic, and functional basis for health
2 planning and for health service and having within it one or
3 more local areas for health planning and health service. The
4 term "region", as contrasted with the term "subregion", and the
5 word "area" may be used synonymously with the term "areawide".

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

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

12 "Licensed health care professional" means a person
13 licensed to practice a health profession under pertinent
14 licensing statutes of the State of Illinois.

15 "Director" means the Director of the Illinois Department of
16 Public Health.

17 "Agency" or "Department" means the Illinois Department of
18 Public Health.

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

21 "Out-of-state facility" means a person that is both (i)
22 licensed as a hospital or as an ambulatory surgery center under
23 the laws of another state or that qualifies as a hospital or an
24 ambulatory surgery center under regulations adopted pursuant
25 to the Social Security Act and (ii) not licensed under the
26 Ambulatory Surgical Treatment Center Act, the Hospital

1 Licensing Act, or the Nursing Home Care Act. Affiliates of
2 out-of-state facilities shall be considered out-of-state
3 facilities. Affiliates of Illinois licensed health care
4 facilities 100% owned by an Illinois licensed health care
5 facility, its parent, or Illinois physicians licensed to
6 practice medicine in all its branches shall not be considered
7 out-of-state facilities. Nothing in this definition shall be
8 construed to include an office or any part of an office of a
9 physician licensed to practice medicine in all its branches in
10 Illinois that is not required to be licensed under the
11 Ambulatory Surgical Treatment Center Act.

12 "Change of ownership of a health care facility" means a
13 change in the person who has ownership or control of a health
14 care facility's physical plant and capital assets. A change in
15 ownership is indicated by the following transactions: sale,
16 transfer, acquisition, lease, change of sponsorship, or other
17 means of transferring control.

18 "Related person" means any person that: (i) is at least 50%
19 owned, directly or indirectly, by either the health care
20 facility or a person owning, directly or indirectly, at least
21 50% of the health care facility; or (ii) owns, directly or
22 indirectly, at least 50% of the health care facility.

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

26 "Freestanding emergency center" means a facility subject

1 to licensure under Section 32.5 of the Emergency Medical
2 Services (EMS) Systems Act.

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

16 "State Board Staff Report" means the document that sets
17 forth the review and findings of the State Board staff, as
18 prescribed by the State Board, regarding applications subject
19 to Board jurisdiction.

20 (Source: P.A. 98-414, eff. 1-1-14; 98-629, eff. 1-1-15; 98-651,
21 eff. 6-16-14; 98-1086, eff. 8-26-14; 99-78, eff. 7-20-15;
22 99-180, eff. 7-29-15; 99-527, eff. 1-1-17.)

23 (20 ILCS 3960/4.2)

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

25 Sec. 4.2. Ex parte communications.

1 (a) Except in the disposition of matters that agencies are
2 authorized by law to entertain or dispose of on an ex parte
3 basis including, but not limited to rule making, the State
4 Board, any State Board member, employee, or a hearing officer
5 shall not engage in ex parte communication in connection with
6 the substance of any formally filed application for a permit
7 with any person or party or the representative of any party.
8 This subsection (a) applies when the Board, member, employee,
9 or hearing officer knows, or should know upon reasonable
10 inquiry, that the application or exemption has been formally
11 filed with the Board. Nothing in this Section shall prohibit
12 staff members from providing technical assistance to
13 applicants. Nothing in this Section shall prohibit staff from
14 verifying or clarifying an applicant's information as it
15 prepares the State Board Staff Report ~~staff report~~. Once an
16 application or exemption is filed and deemed complete, a
17 written record of any communication between staff and an
18 applicant shall be prepared by staff and made part of the
19 public record, using a prescribed, standardized format, and
20 shall be included in the application file.

21 (b) A State Board member or employee may communicate with
22 other members or employees and any State Board member or
23 hearing officer may have the aid and advice of one or more
24 personal assistants.

25 (c) An ex parte communication received by the State Board,
26 any State Board member, employee, or a hearing officer shall be

1 made a part of the record of the matter, including all written
2 communications, all written responses to the communications,
3 and a memorandum stating the substance of all oral
4 communications and all responses made and the identity of each
5 person from whom the ex parte communication was received.

6 (d) "Ex parte communication" means a communication between
7 a person who is not a State Board member or employee and a
8 State Board member or employee that reflects on the substance
9 of a pending or impending State Board proceeding and that takes
10 place outside the record of the proceeding. Communications
11 regarding matters of procedure and practice, such as the format
12 of pleading, number of copies required, manner of service, and
13 status of proceedings, are not considered ex parte
14 communications. Technical assistance with respect to an
15 application, not intended to influence any decision on the
16 application, may be provided by employees to the applicant. Any
17 assistance shall be documented in writing by the applicant and
18 employees within 10 business days after the assistance is
19 provided.

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

23 (f) The State Board, State Board member, or hearing
24 examiner presiding over the proceeding, in the event of a
25 violation of this Section, must take whatever action is
26 necessary to ensure that the violation does not prejudice any

1 party or adversely affect the fairness of the proceedings.

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

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

6 (20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

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

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

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

25 (a) requires a total capital expenditure in excess of

1 the capital expenditure minimum; or

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

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

11 A permit shall be valid only for the defined construction
12 or modifications, site, amount and person named in the
13 application for such permit and shall not be transferable or
14 assignable. A permit shall be valid until such time as the
15 project has been completed, provided that the project commences
16 and proceeds to completion with due diligence by the completion
17 date or extension date approved by the Board.

18 A permit holder must do the following: (i) submit the final
19 completion and cost report for the project within 90 days after
20 the approved project completion date or extension date and (ii)
21 submit annual progress reports no earlier than 30 days before
22 and no later than 30 days after each anniversary date of the
23 Board's approval of the permit until the project is completed.
24 To maintain a valid permit and to monitor progress toward
25 project commencement and completion, routine post-permit
26 reports shall be limited to annual progress reports and the

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

23 The Certificate of Need process required under this Act is
24 designed to restrain rising health care costs by preventing
25 unnecessary construction or modification of health care
26 facilities. The Board must assure that the establishment,

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

15 Major construction projects, for the purposes of this Act,
16 shall include but are not limited to: projects for the
17 construction of new buildings; additions to existing
18 facilities; modernization projects whose cost is in excess of
19 \$1,000,000 or 10% of the facilities' operating revenue,
20 whichever is less; and such other projects as the State Board
21 shall define and prescribe pursuant to this Act.

22 The acquisition by any person of major medical equipment
23 that will not be owned by or located in a health care facility
24 and that will not be used to provide services to inpatients of
25 a health care facility shall be exempt from review provided
26 that a notice is filed in accordance with exemption

1 requirements.

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

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

6 (20 ILCS 3960/5.4)

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

8 Sec. 5.4. Safety Net Impact Statement.

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

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

1 public health departments, and community mental health
2 centers.

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

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

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

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

14 (d) Safety Net Impact Statements shall also include all of
15 the following:

16 (1) For the 3 fiscal years prior to the application, a
17 certification describing the amount of charity care
18 provided by the applicant. The amount calculated by
19 hospital applicants shall be in accordance with the
20 reporting requirements for charity care reporting in the
21 Illinois Community Benefits Act. Non-hospital applicants
22 shall report charity care, at cost, in accordance with an
23 appropriate methodology specified by the Board.

24 (2) For the 3 fiscal years prior to the application, a
25 certification of the amount of care provided to Medicaid
26 patients. Hospital and non-hospital applicants shall

1 provide Medicaid information in a manner consistent with
2 the information reported each year to the State Board
3 regarding "Inpatients and Outpatients Served by Payor
4 Source" and "Inpatient and Outpatient Net Revenue by Payor
5 Source" as required by the Board under Section 13 of this
6 Act and published in the Annual Hospital Profile.

7 (3) Any information the applicant believes is directly
8 relevant to safety net services, including information
9 regarding teaching, research, and any other service.

10 (e) The Board staff shall publish a notice, that an
11 application accompanied by a Safety Net Impact Statement has
12 been filed, in a newspaper having general circulation within
13 the area affected by the application. If no newspaper has a
14 general circulation within the county, the Board shall post the
15 notice in 5 conspicuous places within the proposed area.

16 (f) Any person, community organization, provider, or
17 health system or other entity wishing to comment upon or oppose
18 the application may file a Safety Net Impact Statement Response
19 with the Board, which shall provide additional information
20 concerning a project's impact on safety net services in the
21 community.

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

24 (h) The State Board Staff Report ~~staff report~~ shall include
25 a statement as to whether a Safety Net Impact Statement was
26 filed by the applicant and whether it included information on

1 charity care, the amount of care provided to Medicaid patients,
2 and information on teaching, research, or any other service
3 provided by the applicant directly relevant to safety net
4 services. The report shall also indicate the names of the
5 parties submitting responses and the number of responses and
6 replies, if any, that were filed.

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

8 (20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

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

10 Sec. 6. Application for permit or exemption; exemption
11 regulations.

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

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

1 category of service, and discontinuation of a health care
2 facility, other than a health care facility maintained by the
3 State or any agency or department thereof or a nursing home
4 maintained by a county. For a change of ownership of a health
5 care facility, the State Board shall provide by rule for an
6 expedited process for obtaining an exemption in accordance with
7 Section 8.5 of this Act. In connection with a change of
8 ownership, the State Board may approve the transfer of an
9 existing permit without regard to whether the permit to be
10 transferred has yet been obligated, except for permits
11 establishing a new facility or a new category of service.

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

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

1 the State Board may, in its discretion, permit the submission
2 of other additional written materials.

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

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

25 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

2 Sec. 12. Powers and duties of State Board. For purposes of
3 this Act, the State Board shall exercise the following powers
4 and duties:

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

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

17 (3) (Blank).

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

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

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

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

17 (b) The number of existing and planned facilities
18 offering similar programs;

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

20 (d) The availability of facilities which may serve as
21 alternatives or substitutes;

22 (e) The availability of personnel necessary to the
23 operation of the facility;

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

26 (g) The financial and economic feasibility of proposed

1 construction or modification; and

2 (h) In the case of health care facilities established
3 by a religious body or denomination, the needs of the
4 members of such religious body or denomination may be
5 considered to be public need.

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

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

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

18 (7) The State Board shall prescribe procedures for review,
19 standards, and criteria which shall be utilized to make
20 periodic reviews and determinations of the appropriateness of
21 any existing health services being rendered by health care
22 facilities subject to the Act. The State Board shall consider
23 recommendations of the Board in making its determinations.

24 (8) Prescribe rules, regulations, standards, and criteria
25 for the conduct of an expeditious review of applications for
26 permits for projects of construction or modification of a

1 health care facility, which projects are classified as
2 emergency, substantive, or non-substantive in nature.

3 Six months after June 30, 2009 (the effective date of
4 Public Act 96-31), substantive projects shall include no more
5 than the following:

6 (a) Projects to construct (1) a new or replacement
7 facility located on a new site or (2) a replacement
8 facility located on the same site as the original facility
9 and the cost of the replacement facility exceeds the
10 capital expenditure minimum, which shall be reviewed by the
11 Board within 120 days;

12 (b) Projects proposing a (1) new service within an
13 existing healthcare facility or (2) discontinuation of a
14 service within an existing healthcare facility, which
15 shall be reviewed by the Board within 60 days; or

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

23 The Chairman may approve applications for exemption that
24 meet the criteria set forth in rules or refer them to the full
25 Board. The Chairman may approve any unopposed application that
26 meets all of the review criteria or refer them to the full

1 Board.

2 Such rules shall not prevent the conduct of a public
3 hearing upon the timely request of an interested party. Such
4 reviews shall not exceed 60 days from the date the application
5 is declared to be complete.

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

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

20 (10.5) Provide its rationale when voting on an item before
21 it at a State Board meeting in order to comply with subsection
22 (b) of Section 3-108 of the Code of Civil Procedure.

23 (11) Issue written decisions upon request of the applicant
24 or an adversely affected party to the Board. Requests for a
25 written decision shall be made within 15 days after the Board
26 meeting in which a final decision has been made. A "final

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

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

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

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

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

1 later than January 1, 2017. The Subcommittee shall evaluate,
2 and make recommendations to the State Board regarding, the
3 buying, selling, and exchange of beds between long-term care
4 facilities within a specified geographic area or drive time.
5 The Board shall file the proposed related administrative rules
6 for the separate rules and guidelines for long-term care
7 required by this paragraph (15) by no later than September 30,
8 2011. The Subcommittee shall be provided a reasonable and
9 timely opportunity to review and comment on any review,
10 revision, or updating of the criteria, standards, procedures,
11 and rules used to evaluate project applications as provided
12 under Section 12.3 of this Act.

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

24 One representative from the Department of Public Health,
25 the Department of Healthcare and Family Services, the
26 Department on Aging, and the Department of Human Services may

1 each serve as an ex-officio non-voting member of the
2 Subcommittee. The Chairman of the Board shall select a
3 Subcommittee Chair, who shall serve for a period of 3 years.

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

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

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

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