

1 AN ACT in relation to health care facilities.

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, 4.2, 5, 5.3, 6, 10, 12,  
6 12.2, 13, and 19.6 and by adding Section 12.3 as follows:

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

8 (Section scheduled to be repealed on July 1, 2003)

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

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

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  
17 Licensing Act;

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

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

22 4. Hospitals, nursing homes, ambulatory surgical  
23 treatment centers, or kidney disease treatment centers  
24 maintained by the State or any department or agency  
25 thereof;

26 5. Kidney disease treatment centers, including a  
27 free-standing hemodialysis unit; and

28 6. An institution, place, building, or room used  
29 for the performance of outpatient surgical procedures  
30 that is leased, owned, or operated by or on behalf of an  
31 out-of-state facility.

1 No federally owned facility shall be subject to the  
2 provisions of this Act, nor facilities used solely for  
3 healing by prayer or spiritual means.

4 No facility licensed under the Supportive Residences  
5 Licensing Act or the Assisted Living and Shared Housing Act  
6 shall be subject to the provisions of this Act.

7 A facility designated as a supportive living facility  
8 that is in good standing with the demonstration project  
9 established under Section 5-5.01a of the Illinois Public Aid  
10 Code shall not be subject to the provisions of this Act.

11 This Act does not apply to facilities granted waivers  
12 under Section 3-102.2 of the Nursing Home Care Act. However,  
13 if a demonstration project under that Act applies for a  
14 certificate of need to convert to a nursing facility, it  
15 shall meet the licensure and certificate of need requirements  
16 in effect as of the date of application.

17 This Act shall not apply to the closure of an entity or a  
18 portion of an entity licensed under the Nursing Home Care Act  
19 that elects to convert, in whole or in part, to an assisted  
20 living or shared housing establishment licensed under the  
21 Assisted Living and Shared Housing Establishment Act.

22 With the exception of those health care facilities  
23 specifically included in this Section, nothing in this Act  
24 shall be intended to include facilities operated as a part of  
25 the practice of a physician or other licensed health care  
26 professional, whether practicing in his individual capacity  
27 or within the legal structure of any partnership, medical or  
28 professional corporation, or unincorporated medical or  
29 professional group. Further, this Act shall not apply to  
30 physicians or other licensed health care professional's  
31 practices where such practices are carried out in a portion  
32 of a health care facility under contract with such health  
33 care facility by a physician or by other licensed health care  
34 professionals, whether practicing in his individual capacity

1 or within the legal structure of any partnership, medical or  
2 professional corporation, or unincorporated medical or  
3 professional groups. This Act shall apply to construction or  
4 modification and to establishment by such health care  
5 facility of such contracted portion which is subject to  
6 facility licensing requirements, irrespective of the party  
7 responsible for such action or attendant financial  
8 obligation.

9 "Person" means any one or more natural persons, legal  
10 entities, governmental bodies other than federal, or any  
11 combination thereof.

12 "Consumer" means any person other than a person (a) whose  
13 major occupation currently involves or whose official  
14 capacity within the last 12 months has involved the  
15 providing, administering or financing of any type of health  
16 care facility, (b) who is engaged in health research or the  
17 teaching of health, (c) who has a material financial interest  
18 in any activity which involves the providing, administering  
19 or financing of any type of health care facility, or (d) who  
20 is or ever has been a member of the immediate family of the  
21 person defined by (a), (b), or (c).

22 "State Board" means the Health Facilities Planning Board.

23 "Construction or modification" means the establishment,  
24 erection, building, alteration, reconstruction,  
25 modernization, improvement, extension, discontinuation,  
26 change of ownership, of or by a health care facility, or the  
27 purchase or acquisition by or through a health care facility  
28 of equipment or service for diagnostic or therapeutic  
29 purposes or for facility administration or operation, or any  
30 capital expenditure made by or on behalf of a health care  
31 facility which exceeds the capital expenditure minimum;  
32 however, any capital expenditure made by or on behalf of a  
33 health care facility for the construction or modification of  
34 a facility licensed under the Assisted Living and Shared

1 Housing Act shall be excluded from any obligations under this  
2 Act.

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

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

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

29 For the purpose of this paragraph, the cost of any  
30 studies, surveys, designs, plans, working drawings,  
31 specifications, and other activities essential to the  
32 acquisition, improvement, expansion, or replacement of any  
33 plant or equipment with respect to which an expenditure is  
34 made shall be included in determining if such expenditure

1 exceeds the capital expenditures minimum. Donations of  
2 equipment or facilities to a health care facility which if  
3 acquired directly by such facility would be subject to review  
4 under this Act shall be considered capital expenditures, and  
5 a transfer of equipment or facilities for less than fair  
6 market value shall be considered a capital expenditure for  
7 purposes of this Act if a transfer of the equipment or  
8 facilities at fair market value would be subject to review.

9 "Capital expenditure minimum" means \$6,000,000, which  
10 shall be annually adjusted to reflect the increase in  
11 construction costs due to inflation, for major medical  
12 equipment and for all other capital expenditures; provided,  
13 however, that when a capital expenditure is for the  
14 construction or modification of a health and fitness center,  
15 "capital expenditure minimum" means the capital expenditure  
16 minimum for all other capital expenditures in effect on March  
17 1, 2000, which shall be annually adjusted to reflect the  
18 increase in construction costs due to inflation.

19 "Non-clinical service area" means an area (i) for the  
20 benefit of the patients, visitors, staff, or employees of a  
21 health care facility and (ii) not directly related to the  
22 diagnosis, treatment, or rehabilitation of persons receiving  
23 services from the health care facility. "Non-clinical  
24 service areas" include, but are not limited to, chapels; gift  
25 shops; news stands; computer systems; tunnels, walkways, and  
26 elevators; telephone systems; projects to comply with life  
27 safety codes; educational facilities; student housing;  
28 patient, employee, staff, and visitor dining areas;  
29 administration and volunteer offices; modernization of  
30 structural components (such as roof replacement and masonry  
31 work); boiler repair or replacement; vehicle maintenance and  
32 storage facilities; parking facilities; mechanical systems  
33 for heating, ventilation, and air conditioning; loading  
34 docks; and repair or replacement of carpeting, tile, wall

1 coverings, window coverings or treatments, or furniture.  
2 Solely for the purpose of this definition, "non-clinical  
3 service area" does not include health and fitness centers.

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

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

15 "Areawide health planning organization" or "Comprehensive  
16 health planning organization" means the health systems agency  
17 designated by the Secretary, Department of Health and Human  
18 Services or any successor agency.

19 "Local health planning organization" means those local  
20 health planning organizations that are designated as such by  
21 the areawide health planning organization of the appropriate  
22 area.

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

25 "Licensed health care professional" means a person  
26 licensed to practice a health profession under pertinent  
27 licensing statutes of the State of Illinois.

28 "Director" means the Director of the Illinois Department  
29 of Public Health.

30 "Agency" means the Illinois Department of Public Health.

31 "Comprehensive health planning" means health planning  
32 concerned with the total population and all health and  
33 associated problems that affect the well-being of people and  
34 that encompasses health services, health manpower, and health

1 facilities; and the coordination among these and with those  
2 social, economic, and environmental factors that affect  
3 health.

4 "Alternative health care model" means a facility or  
5 program authorized under the Alternative Health Care Delivery  
6 Act.

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

25 "Change of ownership of a health care facility" means a  
26 change in the person who has ownership or control of a health  
27 care facility's physical plant and capital assets. A change  
28 in ownership is indicated by the following transactions:  
29 sale, transfer, acquisition, lease, change of sponsorship, or  
30 other means of transferring control.

31 "Related person" means any person that: (i) is at least  
32 50% owned, directly or indirectly, by either the health care  
33 facility or a person owning, directly or indirectly, at least  
34 50% of the health care facility; or (ii) owns, directly or

1 indirectly, at least 50% of the health care facility.

2 (Source: P.A. 90-14, eff. 7-1-97; 91-656, eff. 1-1-01;  
3 91-782, eff. 6-9-00; revised 11-6-02.)

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

5 (Section scheduled to be repealed on July 1, 2003)

6 Sec. 4. Health Facilities Planning Board; membership;  
7 appointment; term; compensation; quorum. There is created  
8 the Health Facilities Planning Board, which shall perform the  
9 such functions as-hereinafter described in this Act.

10 The State Board shall consist of 15 voting members,  
11 including: 8 consumer members; one member representing the  
12 commercial health insurance industry in Illinois; one member  
13 representing hospitals in Illinois; one member who is  
14 actively engaged in the field of hospital management; one  
15 member who is a professional nurse registered in Illinois;  
16 one member who is a physician in active private practice  
17 licensed in Illinois to practice medicine in all of its  
18 branches; one member who is actively engaged in the field of  
19 skilled nursing or intermediate care facility management; and  
20 one member who is actively engaged in the administration of  
21 an ambulatory surgical treatment center licensed under the  
22 Ambulatory Surgical Treatment Center Act.

23 The State Board shall be appointed by the Governor, with  
24 the advice and consent of the Senate. In making the  
25 appointments, the Governor shall give consideration to  
26 recommendations made by (1) the professional organizations  
27 concerned with hospital management for the hospital  
28 management appointment, (2) professional organizations  
29 concerned with long term care facility management for the  
30 long term care facility management appointment, (3)  
31 professional medical organizations for the physician  
32 appointment, (4) professional nursing organizations for the  
33 nurse appointment, and (5) professional organizations



1 concerned with ambulatory surgical treatment centers for the  
2 ambulatory surgical treatment center appointment, and shall  
3 appoint as consumer members individuals familiar with  
4 community health needs but whose interest in the operation,  
5 construction or utilization of health care facilities are  
6 derived from factors other than those related to his  
7 profession, business, or economic gain, and who represent, so  
8 far as possible, different geographic areas of the State. Not  
9 more than 8 of the appointments shall be of the same  
10 political party.

11 The Secretary of Human Services, the Director of Public  
12 Aid, and the Director of Public Health, or their designated  
13 representatives, shall serve as ex-officio, non-voting  
14 members of the State Board.

15 Of those appointed by the Governor as voting members,  
16 each member shall hold office for a term of 3 years:  
17 provided, that any member appointed to fill a vacancy  
18 occurring prior to the expiration of the term for which his  
19 predecessor was appointed shall be appointed for the  
20 remainder of such term and the term of office of each  
21 successor shall commence on July 1 of the year in which his  
22 predecessor's term expires. In making original appointments  
23 to the State Board, the Governor shall appoint 5 members for  
24 a term of one year, 5 for a term of 2 years, and 3 for a term  
25 of 3 years, and each of these terms of office shall commence  
26 on July 1, 1974. The initial term of office for the members  
27 appointed under this amendatory Act of 1996 shall begin on  
28 July 1, 1996 and shall last for 2 years, and each subsequent  
29 appointment shall be for a term of 3 years. Each member  
30 shall hold office until his successor is appointed and  
31 qualified.

32 Notwithstanding any provision of this Section to the  
33 contrary, on or after January 1, 2004, no person shall be  
34 appointed as a State Board member if that person has served

1 more than 2 consecutive 3-year terms as a State Board member,  
2 except for ex-officio, non-voting members.

3 State Board members, while serving on business of the  
4 State Board, shall receive actual and necessary travel and  
5 subsistence expenses while so serving away from their places  
6 of residence. In addition, while serving on business of the  
7 State Board, each member shall receive compensation of \$150  
8 per day, except that such compensation shall not exceed  
9 \$7,500 in any one year for any member.

10 The State Board shall provide for its own organization  
11 and procedures, including the selection of a Chairman and  
12 such other officers as deemed necessary. The Director, with  
13 concurrence of the State Board, shall name as full-time  
14 Executive Secretary of the State Board, a person qualified in  
15 health care facility planning and in administration. The  
16 Agency shall provide administrative and staff support for the  
17 State Board. The State Board shall advise the Director of  
18 its budgetary and staff needs and consult with the Director  
19 on annual budget preparation.

20 The State Board shall meet at least once each quarter, or  
21 as often as the Chairman of the State Board deems necessary,  
22 or upon the request of a majority of the members.

23 A majority of the voting Eight members of the State Board  
24 who currently hold office shall constitute a quorum. The  
25 affirmative vote of a majority 8 of the voting members of the  
26 State Board who currently hold office shall be necessary for  
27 any action requiring a vote to be taken by the State Board. A  
28 vacancy in the membership of the State Board shall not impair  
29 the right of a quorum to exercise all the rights and perform  
30 all the duties of the State Board as provided by this Act.

31 A State Board member shall disqualify himself or herself  
32 from the consideration of any application for a permit or  
33 exemption in which the State Board member or the State Board  
34 member's spouse, parent, or child: (a) has an economic

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

4 (Source: P.A. 90-14, eff. 7-1-97; 91-782, eff. 6-9-00.)

5 (20 ILCS 3960/4.2)

6 (Section scheduled to be repealed on July 1, 2003)

7 Sec. 4.2. Ex parte communications.

8 (a) Except in the disposition of matters that agencies  
9 are authorized by law to entertain or dispose of on an ex  
10 parte basis including, but not limited to rule making, the  
11 State Board, any State Board member, employee, or a hearing  
12 officer shall not engage in ex parte communication, after an  
13 application for a permit is received, in connection with the  
14 substance of any application for a permit with any person or  
15 party or the representative of any party.

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

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

28 (d) "Ex parte communication" means a communication  
29 between a person who is not a State Board member or employee  
30 and State Board member or employee that reflects on the  
31 substance of a pending State Board proceeding and that takes  
32 place outside the record of the proceeding. Communications  
33 regarding matters of procedure and practice, such as the

1 format of pleading, number of copies required, manner of  
2 service, and status of proceedings, are not considered ex  
3 parte communications. Technical assistance with respect to  
4 an application, not intended to influence any decision on the  
5 application, may be provided by employees to the applicant.  
6 Any assistance shall be documented in writing by the  
7 applicant and employees within 10 business days after the  
8 assistance is provided.

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

12 (e-5) For purposes of this Section, "technical  
13 assistance" means providing explanations concerning this Act  
14 or rules adopted pursuant to this Act, providing information  
15 regarding standards and criteria used to evaluate  
16 applications for permit or exemption, consultation on options  
17 for successfully addressing the State Board's rules,  
18 standards, and criteria, and other assistance that may be  
19 necessary in the preparation, alteration, modification, or  
20 revision of an application for permit or exemption. Technical  
21 assistance also includes assistance regarding matters of  
22 procedure.

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  
27 party or adversely affect the fairness of the proceedings.

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

31 (Source: P.A. 91-782, eff. 6-9-00.)

32 (20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155)

33 (Section scheduled to be repealed on July 1, 2003)

1           Sec. 5. Construction, modification, or establishment of  
2 health care facilities or acquisition of major medical  
3 equipment; permits or exemptions. After effective dates set  
4 by the State Board, no person shall construct, modify or  
5 establish a health care facility or acquire major medical  
6 equipment without first obtaining a permit or exemption from  
7 the State Board. The State Board shall not delegate to the  
8 Executive Secretary of the State Board or any other person or  
9 entity the authority to grant permits or exemptions whenever  
10 the Executive Secretary or other person or entity would be  
11 required to exercise any discretion affecting the decision to  
12 grant a permit or exemption. The State Board shall set  
13 effective dates applicable to all or to each classification  
14 or category of health care facilities and applicable to all  
15 or each type of transaction for which a permit is required.  
16 Varying effective dates may be set, providing the date or  
17 dates so set shall apply uniformly statewide.

18           Notwithstanding any effective dates established by this  
19 Act or by the State Board, no person shall be required to  
20 obtain a permit for any purpose under this Act until the  
21 State health facilities plan referred to in paragraph (4) of  
22 Section 12 of this Act has been approved and adopted by the  
23 State Board subsequent to public hearings having been held  
24 thereon.

25           A permit or exemption shall be obtained prior to the  
26 acquisition of major medical equipment or to the construction  
27 or modification of a health care facility which:

28                 (a) requires a total capital expenditure in excess  
29                 of the capital expenditure minimum; or

30                 (b) substantially changes the scope or changes the  
31                 functional operation of the facility; or

32                 (c) changes the bed capacity of a health care  
33                 facility by increasing the total number of beds or by  
34                 distributing beds among various categories of service or

1 by relocating beds from one physical facility or site to  
2 another by more than 15 ~~10~~ beds or more than 15% ~~10%~~ of  
3 total bed capacity as defined by the State Board,  
4 whichever is less, over a 2-year ~~2--year~~ period. The  
5 2-year period commences on the date the health care  
6 facility informs the Department that a bed change has  
7 occurred, the date of correspondence from the Illinois  
8 Health Facilities Planning Board that no permit or  
9 exemption is needed to initiate a bed change, or the date  
10 the bed change becomes effective, whichever occurs first.

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 (a) obligation of  
16 the project occurs within 12 months following issuance of the  
17 permit except for major construction projects such obligation  
18 must occur within 18 months following issuance of the permit;  
19 and (b) the project commences and proceeds to completion with  
20 due diligence. Major construction projects, for the purposes  
21 of this Act, shall include but are not limited to: projects  
22 for the construction of new buildings; additions to existing  
23 facilities; modernization projects whose cost is in excess of  
24 \$1,000,000 or 10% of the facilities' operating revenue,  
25 whichever is less; and such other projects as the State Board  
26 shall define and prescribe pursuant to this Act. The State  
27 Board may extend the obligation period upon a showing of good  
28 cause by the permit holder. Permits for projects that have  
29 not been obligated within the prescribed obligation period  
30 shall expire on the last day of that period.

31 Persons who otherwise would be required to obtain a  
32 permit shall be exempt from such requirement if the State  
33 Board finds that with respect to establishing a new facility  
34 or construction of new buildings or additions or

1 modifications to an existing facility, final plans and  
2 specifications for such work have prior to October 1, 1974,  
3 been submitted to and approved by the Department of Public  
4 Health in accordance with the requirements of applicable  
5 laws. Such exemptions shall be null and void after December  
6 31, 1979 unless binding construction contracts were signed  
7 prior to December 1, 1979 and unless construction has  
8 commenced prior to December 31, 1979. Such exemptions shall  
9 be valid until such time as the project has been completed  
10 provided that the project proceeds to completion with due  
11 diligence.

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

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

22 Notwithstanding any other provision of this Act, no  
23 permit or exemption is required for the establishment,  
24 construction, or modification of the following services,  
25 provided the capital expenditure does not exceed the capital  
26 expenditure minimum: Therapeutic Radiology, Intraoperative  
27 Magnetic Resonance Imaging, High Linear Energy Transfer,  
28 Positron Emission Tomographic Scanning, and Burn Treatment.

29 Notwithstanding any other provisions of this Act, no  
30 permit or exemption is required for the establishment of  
31 Acute Care Beds Certified for Extended Care Category of  
32 Service (swing beds) as defined under Title XVIII of the  
33 federal Social Security Act.

34 (Source: P.A. 91-782, eff. 6-9-00.)

1 (20 ILCS 3960/5.3)

2 (Section scheduled to be repealed on July 1, 2003)

3 Sec. 5.3. Annual report of capital expenditures. In  
4 addition to the State Board's authority to require reports,  
5 the State Board shall require each health care facility to  
6 submit an annual report of all capital expenditures in excess  
7 of \$200,000 (which shall be annually adjusted to reflect the  
8 increase in construction costs due to inflation) made by the  
9 health care facility during the most recent year. This  
10 annual report shall consist of a brief description of the  
11 capital expenditure, the amount and method of financing the  
12 capital expenditure, the certificate of need project number  
13 if the project was reviewed, and the total amount of capital  
14 expenditures obligated for the year. Data collected from  
15 health care facilities pursuant to this Section shall not  
16 duplicate or overlap other data collected by the Department  
17 and must be collected as part of the Department's Annual  
18 Questionnaires or supplements for health care facilities that  
19 report these data.

20 (Source: P.A. 91-782, eff. 6-9-00.)

21 (20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

22 (Section scheduled to be repealed on July 1, 2003)

23 Sec. 6. Application for permit or exemption; exemption  
24 regulations.

25 (a) An application for a permit or exemption shall be  
26 made to the State Board upon forms provided by the State  
27 Board. This application shall contain such information as  
28 the State Board deems necessary. Such application shall  
29 include affirmative evidence on which the Director may make  
30 the findings required under this Section and upon which the  
31 State Board may make its decision on the approval or denial  
32 of the permit or exemption.

33 (b) The State Board shall establish by regulation the



1 procedures and requirements regarding issuance of exemptions.  
2 An exemption shall be approved when information required by  
3 the Board by rule is submitted. Projects eligible for an  
4 exemption, rather than a permit, include, but are not limited  
5 to:

6 (1) Change of ownership of a health care facility.  
7 For a change of ownership of a health care facility  
8 between related persons, the State Board shall provide by  
9 rule for an expedited process for obtaining an exemption.

10 (2) Establishment of neonatal intensive care  
11 service.

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

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

1 Act.

2 (Source: P.A. 88-18.)

3 (20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)

4 (Section scheduled to be repealed on July 1, 2003)

5 Sec. 10. Presenting information relevant to the approval  
6 of a permit or certificate or in opposition to the denial of  
7 the application; notice of outcome and review proceedings.

8 When a motion by the State Board, to approve an application  
9 for a permit or a certificate of recognition, fails to pass,  
10 or when a motion to deny an application for a permit or a  
11 certificate of recognition is passed, the applicant or the  
12 holder of the permit, as the case may be, and such other  
13 parties as the State Board permits, will be given an  
14 opportunity to appear before the State Board and present such  
15 information as may be relevant to the approval of a permit or  
16 certificate or in opposition to the denial of the  
17 application.

18 Subsequent to an appearance by the applicant before the  
19 State Board or default of such opportunity to appear, a  
20 motion by the State Board to approve an application for a  
21 permit or a certificate of recognition which fails to pass or  
22 a motion to deny an application for a permit or a certificate  
23 of recognition which passes shall be considered denial of  
24 the application for a permit or certificate of recognition,  
25 as the case may be. Such action of denial or an action by  
26 the State Board to revoke a permit or a certificate of  
27 recognition shall be communicated to the applicant or holder  
28 of the permit or certificate of recognition. Such person or  
29 organization shall be afforded an opportunity for a hearing  
30 before a hearing officer, who is appointed by the Director  
31 State-Board. A written notice of a request for such hearing  
32 shall be served upon the Chairman of the State Board within  
33 30 days following notification of the decision of the State

1 Board. The State Board shall schedule a hearing, and the  
2 Director Chairman shall appoint a hearing officer within 30  
3 days thereafter. The hearing officer shall take actions  
4 necessary to ensure that the hearing is completed within a  
5 reasonable period of time, but not to exceed 90 days, except  
6 for delays or continuances agreed to by the person requesting  
7 the hearing. Following its consideration of the report of  
8 the hearing, or upon default of the party to the hearing, the  
9 State Board shall make its final determination, specifying  
10 its findings and conclusions within 45 days of receiving the  
11 written report of the hearing. A copy of such determination  
12 shall be sent by certified mail or served personally upon the  
13 party.

14 A full and complete record shall be kept of all  
15 proceedings, including the notice of hearing, complaint, and  
16 all other documents in the nature of pleadings, written  
17 motions filed in the proceedings, and the report and orders  
18 of the State Board or hearing officer. All testimony shall be  
19 reported but need not be transcribed unless the decision is  
20 appealed in accordance with the Administrative Review Law, as  
21 now or hereafter amended. A copy or copies of the transcript  
22 may be obtained by any interested party on payment of the  
23 cost of preparing such copy or copies.

24 The State Board or hearing officer shall upon its own or  
25 his motion, or on the written request of any party to the  
26 proceeding who has, in the State Board's or hearing officer's  
27 opinion, demonstrated the relevancy of such request to the  
28 outcome of the proceedings, issue subpoenas requiring the  
29 attendance and the giving of testimony by witnesses, and  
30 subpoenas duces tecum requiring the production of books,  
31 papers, records, or memoranda. The fees of witnesses for  
32 attendance and travel shall be the same as the fees of  
33 witnesses before the circuit court of this State.

34 When the witness is subpoenaed at the instance of the

1 State Board, or its hearing officer, such fees shall be paid  
 2 in the same manner as other expenses of the Agency, and when  
 3 the witness is subpoenaed at the instance of any other party  
 4 to any such proceeding the State Board may, in accordance  
 5 with the rules of the Agency, require that the cost of  
 6 service of the subpoena or subpoena duces tecum and the fee  
 7 of the witness be borne by the party at whose instance the  
 8 witness is summoned. In such case, the State Board in its  
 9 discretion, may require a deposit to cover the cost of such  
 10 service and witness fees. A subpoena or subpoena duces tecum  
 11 so issued shall be served in the same manner as a subpoena  
 12 issued out of a court.

13 Any circuit court of this State upon the application of  
 14 the State Board or upon the application of any other party to  
 15 the proceeding, may, in its discretion, compel the attendance  
 16 of witnesses, the production of books, papers, records, or  
 17 memoranda and the giving of testimony before it or its  
 18 hearing officer conducting an investigation or holding a  
 19 hearing authorized by this Act, by an attachment for  
 20 contempt, or otherwise, in the same manner as production of  
 21 evidence may be compelled before the court.

22 (Source: P.A. 88-18; 89-276, eff. 8-10-96.)

23 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

24 (Section scheduled to be repealed on July 1, 2003)

25 Sec. 12. Powers and duties of State Board. For purposes  
 26 of this Act, the State Board shall exercise the following  
 27 powers and duties:

28 (1) Prescribe rules, regulations, standards, criteria,  
 29 procedures or reviews which may vary according to the purpose  
 30 for which a particular review is being conducted or the type  
 31 of project reviewed and which are required to carry out the  
 32 provisions and purposes of this Act.

33 (2) Adopt procedures for public notice and hearing on

1 all proposed rules, regulations, standards, criteria, and  
2 plans required to carry out the provisions of this Act.

3 (3) Prescribe criteria for recognition for areawide  
4 health planning organizations, including, but not limited to,  
5 standards for evaluating the scientific bases for judgments  
6 on need and procedure for making these determinations.

7 (4) Develop criteria and standards for health care  
8 facilities planning, conduct statewide inventories of health  
9 care facilities, maintain an updated inventory on the  
10 Department's web site reflecting the most recent bed and  
11 service changes and updated need determinations when new  
12 census data become available or new need formulae are  
13 adopted, and develop health care facility plans which shall  
14 be utilized in the review of applications for permit under  
15 this Act. Such health facility plans shall be coordinated by  
16 the Agency with the health care facility plans areawide  
17 health planning organizations and with other pertinent State  
18 Plans.

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

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

23 (b) The number of existing and planned facilities  
24 offering similar programs;

25 (c) The extent of utilization of existing  
26 facilities;

27 (d) The availability of facilities which may serve  
28 as alternatives or substitutes;

29 (e) The availability of personnel necessary to the  
30 operation of the facility;

31 (f) Multi-institutional planning and the  
32 establishment of multi-institutional systems where  
33 feasible;

34 (g) The financial and economic feasibility of

1 proposed construction or modification; and

2 (h) In the case of health care facilities  
3 established by a religious body or denomination, the  
4 needs of the members of such religious body or  
5 denomination may be 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  
14 the State any grants or bequests of money, securities or  
15 property for use by the State Board or recognized areawide  
16 health planning organizations in the administration of this  
17 Act; and enter into contracts consistent with the  
18 appropriations for purposes enumerated in this Act.

19 (7) The State Board shall prescribe, in consultation  
20 with the recognized areawide health planning organizations,  
21 procedures for review, standards, and criteria which shall be  
22 utilized to make periodic areawide reviews and determinations  
23 of the appropriateness of any existing health services being  
24 rendered by health care facilities subject to the Act. The  
25 State Board shall consider recommendations of the areawide  
26 health planning organization and the Agency in making its  
27 determinations.

28 (8) Prescribe, in consultation with the recognized  
29 areawide health planning organizations, rules, regulations,  
30 standards, and criteria for the conduct of an expeditious  
31 review of applications for permits for projects of  
32 construction or modification of a health care facility, which  
33 projects are non-substantive in nature. Such rules shall not  
34 abridge the right of areawide health planning organizations

1 to make recommendations on the classification and approval of  
2 projects, nor shall such rules prevent the conduct of a  
3 public hearing upon the timely request of an interested  
4 party. Such reviews shall not exceed 60 days from the date  
5 the application is declared to be complete by the Agency.

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

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

21 (Source: P.A. 88-18; 89-276, eff. 8-10-95.)

22 (20 ILCS 3960/12.2)

23 (Section scheduled to be repealed on July 1, 2003)

24 Sec. 12.2. Powers of the Agency. For purposes of this  
25 Act, the Agency shall exercise the following powers and  
26 duties:

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

31 (1.3) Post relevant regulations, standards, criteria,  
32 and state norms on the Department's web site, provide updated  
33 information as it becomes available, and post references used

1 by Agency staff in making determinations about whether  
2 application criteria are met.

3 (1.7) In cases where an application for permit receives  
4 positive findings on all of the State Board's review  
5 criteria, and the application is not objected to by any  
6 member of the public, issue a permit to the applicant.

7 (2) Charge and collect an amount determined by the State  
8 Board to be reasonable fees for the processing of  
9 applications by the State Board, the Agency, and the  
10 appropriate recognized areawide health planning organization.  
11 The State Board shall set the amounts by rule. All fees and  
12 fines collected under the provisions of this Act shall be  
13 deposited into the Illinois Health Facilities Planning Fund  
14 to be used for the expenses of administering this Act.

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

18 (Source: P.A. 89-276, eff. 8-10-95; 90-14, eff. 7-1-97.)

19 (20 ILCS 3960/12.3 new)

20 (Section scheduled to be repealed on July 1, 2003)

21 Sec. 12.3. Revision of Criteria, Standards, and Rules.

22 (a) Before December 31, 2004, the State Board shall  
23 review, revise, and promulgate the criteria, standards, and  
24 rules used to evaluate applications for permit. To the extent  
25 practicable, the criteria, standards, and rules shall be  
26 based on objective criteria. In particular, the review of the  
27 criteria, standards, and rules shall consider:

28 (1) Whether the criteria and standards reflect  
29 current industry standards and anticipated trends.

30 (2) Whether the criteria and standards can be  
31 reduced or eliminated.

32 (3) Whether criteria and standards can be developed  
33 to authorize the construction of unfinished space for



1 future use when the ultimate need for such space can be  
2 reasonably projected.

3 (4) Whether the criteria and standards take into  
4 account issues related to population growth and changing  
5 demographics in a community.

6 (5) Whether facility-defined service and planning  
7 areas should be recognized.

8 (b) The State Board shall recommend and the Director  
9 shall appoint an ad hoc advisory committee to advise it in  
10 the revision and development of the criteria, standards, and  
11 rules under this Section. The ad hoc advisory committee shall  
12 include, but not be limited to representatives of hospitals,  
13 including the Illinois Hospital Association, long term care  
14 facilities, ambulatory surgical treatment centers, health  
15 care employees, business, health insurers, and physicians.  
16 The Director, or his or her designee, shall chair the ad hoc  
17 advisory committee.

18 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

19 (Section scheduled to be repealed on July 1, 2003)

20 Sec. 13. Investigation of applications for permits and  
21 certificates of recognition. The Agency or the State Board  
22 shall make or cause to be made such investigations as it or  
23 the State Board deems necessary in connection with an  
24 application for a permit or an application for a certificate  
25 of recognition, or in connection with a determination of  
26 whether or not construction or modification which has been  
27 commenced is in accord with the permit issued by the State  
28 Board or whether construction or modification has been  
29 commenced without a permit having been obtained. The State  
30 Board may issue subpoenas duces tecum requiring the  
31 production of records and may administer oaths to such  
32 witnesses.

33 Any circuit court of this State, upon the application of

1 the State Board or upon the application of any party to such  
2 proceedings, may, in its discretion, compel the attendance of  
3 witnesses, the production of books, papers, records, or  
4 memoranda and the giving of testimony before the State Board,  
5 by a proceeding as for contempt, or otherwise, in the same  
6 manner as production of evidence may be compelled before the  
7 court.

8 The State Board shall require all health facilities  
9 operating in this State to provide such reasonable reports at  
10 such times and containing such information as is needed by it  
11 to carry out the purposes and provisions of this Act. Prior  
12 to collecting information from health facilities, the State  
13 Board shall make reasonable efforts through a public process  
14 to consult with health facilities and associations that  
15 represent them to determine whether data and information  
16 requests will result in useful information for health  
17 planning, whether sufficient information is available from  
18 other sources, and whether data requested is routinely  
19 collected by health facilities and is available without  
20 retrospective record review. Data and information requests  
21 shall not impose undue paperwork burdens on health care  
22 facilities and personnel. Health facilities not complying  
23 with this requirement shall be reported to licensing,  
24 accrediting, certifying, or payment agencies as being in  
25 violation of State law. Health care facilities and other  
26 parties at interest shall have reasonable access, under rules  
27 established by the State Board, to all planning information  
28 submitted in accord with this Act pertaining to their area.

29 (Source: P.A. 89-276, eff. 8-10-95.)

30 (20 ILCS 3960/19.6)

31 (Section scheduled to be repealed on July 1, 2003).

32 Sec. 19.6. Repeal. This Act is repealed on July 1, 2008  
33 2003.

1 (Source: P.A. 91-782, eff. 6-9-00.)

2 Section 99. Effective date. This Act takes effect upon

3 becoming law.

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