



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3452

Introduced 2/10/2010, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
20 ILCS 3960/4	from Ch. 111 1/2, par. 1154
20 ILCS 3960/6	from Ch. 111 1/2, par. 1156
20 ILCS 3960/12.2	
20 ILCS 3960/19.6 rep.	

Amends the Illinois Health Facilities Planning Act. Removes kidney disease treatment centers from the Act's application. In granting permits, provides that the Health Facilities and Services Review Board may consider the area's population growth but may not consider the applicant's charity care. Requires that the Governor determine compensation for the voting members of the Health Facilities and Services Review Board commensurate with their duties and professional credentials. Removes the authority of the Department of Public Health to review and certify applications. Removes the December 31, 2019 repeal date. Makes other changes. Effective immediately.

LRB096 17832 JAM 33200 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Sections 3, 4, 6, and 12.2 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Text of Section before amendment by P.A. 96-339)

8 (Section scheduled to be repealed on December 31, 2019)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

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

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

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

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

23 5. (Blank) ~~Kidney disease treatment centers, including~~

1 ~~a free standing hemodialysis unit required to be licensed~~
2 ~~under the End Stage Renal Disease Facility Act;~~

3 6. An institution, place, building, or room used for
4 the performance of outpatient surgical procedures that is
5 leased, owned, or operated by or on behalf of an
6 out-of-state facility;

7 7. An institution, place, building, or room used for
8 provision of a health care category of service as defined
9 by the Board, including, but not limited to, cardiac
10 catheterization and open heart surgery; and

11 8. An institution, place, building, or room used for
12 provision of major medical equipment used in the direct
13 clinical diagnosis or treatment of patients, and whose
14 project cost is in excess of the capital expenditure
15 minimum.

16 This Act shall not apply to the construction of any new
17 facility or the renovation of any existing facility located on
18 any campus facility as defined in Section 5-5.8b of the
19 Illinois Public Aid Code, provided that the campus facility
20 encompasses 30 or more contiguous acres and that the new or
21 renovated facility is intended for use by a licensed
22 residential facility.

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

26 No facility licensed under the Supportive Residences

1 Licensing Act or the Assisted Living and Shared Housing Act
2 shall be subject to the provisions of this Act.

3 No facility established and operating under the
4 Alternative Health Care Delivery Act as a children's respite
5 care center alternative health care model demonstration
6 program or as an Alzheimer's Disease Management Center
7 alternative health care model demonstration program shall be
8 subject to the provisions of this Act.

9 A facility designated as a supportive living facility that
10 is in good standing with the program established under Section
11 5-5.01a of the Illinois Public Aid Code shall not be subject to
12 the provisions of this Act.

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

19 This Act does not apply to a dialysis facility that
20 provides only dialysis training, support, and related services
21 to individuals with end stage renal disease who have elected to
22 receive home dialysis. This Act does not apply to a dialysis
23 unit located in a licensed nursing home that offers or provides
24 dialysis-related services to residents with end stage renal
25 disease who have elected to receive home dialysis within the
26 nursing home. The Board, however, may require these dialysis

1 facilities and licensed nursing homes to report statistical
2 information on a quarterly basis to the Board to be used by the
3 Board to conduct analyses on the need for proposed kidney
4 disease treatment centers.

5 This Act shall not apply to the closure of an entity or a
6 portion of an entity licensed under the Nursing Home Care Act,
7 with the exceptions of facilities operated by a county or
8 Illinois Veterans Homes, that elects to convert, in whole or in
9 part, to an assisted living or shared housing establishment
10 licensed under the Assisted Living and Shared Housing Act.

11 This Act does not apply to any change of ownership of a
12 healthcare facility that is licensed under the Nursing Home
13 Care Act, with the exceptions of facilities operated by a
14 county or Illinois Veterans Homes. Changes of ownership of
15 facilities licensed under the Nursing Home Care Act must meet
16 the requirements set forth in Sections 3-101 through 3-119 of
17 the Nursing Home Care Act.

18 With the exception of those health care facilities
19 specifically included in this Section, nothing in this Act
20 shall be intended to include facilities operated as a part of
21 the practice of a physician or other licensed health care
22 professional, whether practicing in his individual capacity or
23 within the legal structure of any partnership, medical or
24 professional corporation, or unincorporated medical or
25 professional group. Further, this Act shall not apply to
26 physicians or other licensed health care professional's

1 practices where such practices are carried out in a portion of
2 a health care facility under contract with such health care
3 facility by a physician or by other licensed health care
4 professionals, whether practicing in his individual capacity
5 or within the legal structure of any partnership, medical or
6 professional corporation, or unincorporated medical or
7 professional groups. This Act shall apply to construction or
8 modification and to establishment by such health care facility
9 of such contracted portion which is subject to facility
10 licensing requirements, irrespective of the party responsible
11 for such action or attendant financial obligation.

12 "Person" means any one or more natural persons, legal
13 entities, governmental bodies other than federal, or any
14 combination thereof.

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

25 "State Board" or "Board" means the Health Facilities and
26 Services Review Board.

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

16 "Establish" means the construction of a health care
17 facility or the replacement of an existing facility on another
18 site or the initiation of a category of service as defined by
19 the Board.

20 "Major medical equipment" means medical equipment which is
21 used for the provision of medical and other health services and
22 which costs in excess of the capital expenditure minimum,
23 except that such term does not include medical equipment
24 acquired by or on behalf of a clinical laboratory to provide
25 clinical laboratory services if the clinical laboratory is
26 independent of a physician's office and a hospital and it has

1 been determined under Title XVIII of the Social Security Act to
2 meet the requirements of paragraphs (10) and (11) of Section
3 1861(s) of such Act. In determining whether medical equipment
4 has a value in excess of the capital expenditure minimum, the
5 value of studies, surveys, designs, plans, working drawings,
6 specifications, and other activities essential to the
7 acquisition of such equipment shall be included.

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

16 For the purpose of this paragraph, the cost of any studies,
17 surveys, designs, plans, working drawings, specifications, and
18 other activities essential to the acquisition, improvement,
19 expansion, or replacement of any plant or equipment with
20 respect to which an expenditure is made shall be included in
21 determining if such expenditure exceeds the capital
22 expenditures minimum. Unless otherwise interdependent, or
23 submitted as one project by the applicant, components of
24 construction or modification undertaken by means of a single
25 construction contract or financed through the issuance of a
26 single debt instrument shall not be grouped together as one

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

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

17 "Non-clinical service area" means an area (i) for the
18 benefit of the patients, visitors, staff, or employees of a
19 health care facility and (ii) not directly related to the
20 diagnosis, treatment, or rehabilitation of persons receiving
21 services from the health care facility. "Non-clinical service
22 areas" include, but are not limited to, chapels; gift shops;
23 news stands; computer systems; tunnels, walkways, and
24 elevators; telephone systems; projects to comply with life
25 safety codes; educational facilities; student housing;
26 patient, employee, staff, and visitor dining areas;

1 administration and volunteer offices; modernization of
2 structural components (such as roof replacement and masonry
3 work); boiler repair or replacement; vehicle maintenance and
4 storage facilities; parking facilities; mechanical systems for
5 heating, ventilation, and air conditioning; loading docks; and
6 repair or replacement of carpeting, tile, wall coverings,
7 window coverings or treatments, or furniture. Solely for the
8 purpose of this definition, "non-clinical service area" does
9 not include health and fitness centers.

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

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

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

22 "Licensed health care professional" means a person
23 licensed to practice a health profession under pertinent
24 licensing statutes of the State of Illinois.

25 "Director" means the Director of the Illinois Department of
26 Public Health.

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

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

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

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

1 "Related person" means any person that: (i) is at least 50%
2 owned, directly or indirectly, by either the health care
3 facility or a person owning, directly or indirectly, at least
4 50% of the health care facility; or (ii) owns, directly or
5 indirectly, at least 50% of the health care facility.

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

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

12 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;
13 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.
14 8-21-08; 96-31, eff. 6-30-09.)

15 (Text of Section after amendment by P.A. 96-339)

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

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

18 "Health care facilities" means and includes the following
19 facilities and organizations:

20 1. An ambulatory surgical treatment center required to
21 be licensed pursuant to the Ambulatory Surgical Treatment
22 Center Act;

23 2. An institution, place, building, or agency required
24 to be licensed pursuant to the Hospital Licensing Act;

25 3. Skilled and intermediate long term care facilities

1 licensed under the Nursing Home Care Act;

2 3.5. Skilled and intermediate care facilities licensed
3 under the MR/DD Community Care Act;

4 4. Hospitals, nursing homes, or ambulatory surgical
5 treatment centers, ~~or kidney disease treatment centers~~
6 maintained by the State or any department or agency
7 thereof;

8 5. (Blank) ~~Kidney disease treatment centers, including~~
9 ~~a free standing hemodialysis unit required to be licensed~~
10 ~~under the End Stage Renal Disease Facility Act;~~

11 6. An institution, place, building, or room used for
12 the performance of outpatient surgical procedures that is
13 leased, owned, or operated by or on behalf of an
14 out-of-state facility;

15 7. An institution, place, building, or room used for
16 provision of a health care category of service as defined
17 by the Board, including, but not limited to, cardiac
18 catheterization and open heart surgery; and

19 8. An institution, place, building, or room used for
20 provision of major medical equipment used in the direct
21 clinical diagnosis or treatment of patients, and whose
22 project cost is in excess of the capital expenditure
23 minimum.

24 This Act shall not apply to the construction of any new
25 facility or the renovation of any existing facility located on
26 any campus facility as defined in Section 5-5.8b of the

1 Illinois Public Aid Code, provided that the campus facility
2 encompasses 30 or more contiguous acres and that the new or
3 renovated facility is intended for use by a licensed
4 residential facility.

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

8 No facility licensed under the Supportive Residences
9 Licensing Act or the Assisted Living and Shared Housing Act
10 shall be subject to the provisions of this Act.

11 No facility established and operating under the
12 Alternative Health Care Delivery Act as a children's respite
13 care center alternative health care model demonstration
14 program or as an Alzheimer's Disease Management Center
15 alternative health care model demonstration program shall be
16 subject to the provisions of this Act.

17 A facility designated as a supportive living facility that
18 is in good standing with the program established under Section
19 5-5.01a of the Illinois Public Aid Code shall not be subject to
20 the provisions of this Act.

21 This Act does not apply to facilities granted waivers under
22 Section 3-102.2 of the Nursing Home Care Act. However, if a
23 demonstration project under that Act applies for a certificate
24 of need to convert to a nursing facility, it shall meet the
25 licensure and certificate of need requirements in effect as of
26 the date of application.

1 This Act does not apply to a dialysis facility that
2 provides only dialysis training, support, and related services
3 to individuals with end stage renal disease who have elected to
4 receive home dialysis. This Act does not apply to a dialysis
5 unit located in a licensed nursing home that offers or provides
6 dialysis-related services to residents with end stage renal
7 disease who have elected to receive home dialysis within the
8 nursing home. The Board, however, may require these dialysis
9 facilities and licensed nursing homes to report statistical
10 information on a quarterly basis to the Board to be used by the
11 Board to conduct analyses on the need for proposed kidney
12 disease treatment centers.

13 This Act shall not apply to the closure of an entity or a
14 portion of an entity licensed under the Nursing Home Care Act
15 or the MR/DD Community Care Act, with the exceptions of
16 facilities operated by a county or Illinois Veterans Homes,
17 that elects to convert, in whole or in part, to an assisted
18 living or shared housing establishment licensed under the
19 Assisted Living and Shared Housing Act.

20 This Act does not apply to any change of ownership of a
21 healthcare facility that is licensed under the Nursing Home
22 Care Act or the MR/DD Community Care Act, with the exceptions
23 of facilities operated by a county or Illinois Veterans Homes.
24 Changes of ownership of facilities licensed under the Nursing
25 Home Care Act must meet the requirements set forth in Sections
26 3-101 through 3-119 of the Nursing Home Care Act.

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

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

24 "Consumer" means any person other than a person (a) whose
25 major occupation currently involves or whose official capacity
26 within the last 12 months has involved the providing,

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

8 "State Board" or "Board" means the Health Facilities and
9 Services Review Board.

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

25 "Establish" means the construction of a health care
26 facility or the replacement of an existing facility on another

1 site or the initiation of a category of service as defined by
2 the Board.

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

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

25 For the purpose of this paragraph, the cost of any studies,
26 surveys, designs, plans, working drawings, specifications, and

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

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

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

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

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

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

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

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

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

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

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

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

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

1 physician licensed to practice medicine in all its branches in
2 Illinois that is not required to be licensed under the
3 Ambulatory Surgical Treatment Center Act.

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

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

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

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

21 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;
22 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.
23 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; revised
24 9-25-09.)

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

2 Sec. 4. Health Facilities and Services Review Board;
3 membership; appointment; term; compensation; quorum.
4 Notwithstanding any other provision in this Section, members of
5 the State Board holding office on the day before the effective
6 date of this amendatory Act of the 96th General Assembly shall
7 retain their authority.

8 (a) There is created within the executive branch of State
9 government and independent of any State agency the Health
10 Facilities and Services Review Board, which shall perform the
11 functions described in this Act. ~~The Department shall provide~~
12 ~~operational support to the Board, including the provision of~~
13 ~~office space, supplies, and clerical, financial, and~~
14 ~~accounting services.~~ The Board may contract with experts
15 related to specific health services or facilities and create
16 technical advisory panels to assist in the development of
17 criteria, standards, and procedures used in the evaluation of
18 applications for permit and exemption.

19 (b) Beginning March 1, 2010, the State Board shall consist
20 of 9 voting members. All members shall be residents of Illinois
21 and at least 4 shall reside outside the Chicago Metropolitan
22 Statistical Area. Consideration shall be given to potential
23 appointees who reflect the ethnic and cultural diversity of the
24 State. Neither Board members nor Board staff shall be convicted
25 felons or have pled guilty to a felony.

26 Each member shall have professional credentials and

1 experience in the field of ~~a reasonable knowledge of~~ the
2 practice, procedures and principles of the health care delivery
3 system in Illinois, including at least 5 members who shall be
4 knowledgeable about health care delivery systems, health
5 systems planning, finance, or the management of health care
6 facilities currently regulated under the Act. One member shall
7 be a representative of a non-profit health care consumer
8 advocacy organization. Spouses or other members of the
9 immediate family of the Board cannot be an employee, agent, or
10 under contract with services or facilities subject to the Act.
11 Prior to appointment and in the course of service on the Board,
12 members of the Board shall disclose the employment or other
13 financial interest of any other relative of the member, if
14 known, in service or facilities subject to the Act. Members of
15 the Board shall declare any conflict of interest that may exist
16 with respect to the status of those relatives and recuse
17 themselves from voting on any issue for which a conflict of
18 interest is declared. No person shall be appointed or continue
19 to serve as a member of the State Board who is, or whose
20 spouse, parent, or child is, a member of the Board of Directors
21 of, has a financial interest in, or has a business relationship
22 with a health care facility.

23 Notwithstanding any provision of this Section to the
24 contrary, the term of office of each member of the State Board
25 serving on the day before the effective date of this amendatory
26 Act of the 96th General Assembly is abolished on the date upon

1 which members of the 9-member Board, as established by this
2 amendatory Act of the 96th General Assembly, have been
3 appointed and can begin to take action as a Board. Members of
4 the State Board serving on the day before the effective date of
5 this amendatory Act of the 96th General Assembly may be
6 reappointed to the 9-member Board. Prior to March 1, 2010, the
7 Health Facilities Planning Board shall establish a plan to
8 transition its powers and duties to the Health Facilities and
9 Services Review Board.

10 (c) The State Board shall be appointed by the Governor,
11 with the advice and consent of the Senate. Not more than 5 of
12 the appointments shall be of the same political party at the
13 time of the appointment.

14 The Secretary of Human Services, the Director of Healthcare
15 and Family Services, and the Director of Public Health, or
16 their designated representatives, shall serve as ex-officio,
17 non-voting members of the State Board.

18 (d) Of those 9 members initially appointed by the Governor
19 following the effective date of this amendatory Act of the 96th
20 General Assembly, 3 shall serve for terms expiring July 1,
21 2011, 3 shall serve for terms expiring July 1, 2012, and 3
22 shall serve for terms expiring July 1, 2013. Thereafter, each
23 appointed member shall hold office for a term of 3 years,
24 provided that any member appointed to fill a vacancy occurring
25 prior to the expiration of the term for which his or her
26 predecessor was appointed shall be appointed for the remainder

1 of such term and the term of office of each successor shall
2 commence on July 1 of the year in which his predecessor's term
3 expires. Each member appointed after the effective date of this
4 amendatory Act of the 96th General Assembly shall hold office
5 until his or her successor is appointed and qualified. The
6 Governor may reappoint a member for additional terms, but no
7 member shall serve more than 3 terms, subject to review and
8 re-approval every 3 years.

9 (e) Voting State Board members shall receive compensation
10 commensurate with their duties and professional credentials as
11 determined by the Governor. ~~State Board members, while serving~~
12 ~~on business of the State Board, shall receive actual and~~
13 ~~necessary travel and subsistence expenses while so serving away~~
14 ~~from their places of residence. Until March 1, 2010, a member~~
15 ~~of the State Board who experiences a significant financial~~
16 ~~hardship due to the loss of income on days of attendance at~~
17 ~~meetings or while otherwise engaged in the business of the~~
18 ~~State Board may be paid a hardship allowance, as determined by~~
19 ~~and subject to the approval of the Governor's Travel Control~~
20 ~~Board.~~

21 (f) The Governor shall designate one of the members to
22 serve as the Chairman of the Board, who shall be a person with
23 expertise in health care delivery system planning, finance or
24 management of health care facilities that are regulated under
25 the Act. The Chairman shall annually review Board member
26 performance and shall report the attendance record of each

1 Board member to the General Assembly.

2 (g) The State Board, through the Chairman, shall prepare a
3 separate and distinct budget approved by the General Assembly
4 and shall hire and supervise its own professional staff
5 responsible for carrying out the responsibilities of the Board.

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

9 (i) Five members of the State Board shall constitute a
10 quorum. The affirmative vote of 5 of the members of the State
11 Board shall be necessary for any action requiring a vote to be
12 taken by the State Board. A vacancy in the membership of the
13 State Board shall not impair the right of a quorum to exercise
14 all the rights and perform all the duties of the State Board as
15 provided by this Act.

16 (j) A State Board member shall disqualify himself or
17 herself from the consideration of any application for a permit
18 or exemption in which the State Board member or the State Board
19 member's spouse, parent, or child: (i) has an economic interest
20 in the matter; or (ii) is employed by, serves as a consultant
21 for, or is a member of the governing board of the applicant or
22 a party opposing the application.

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

25 (Source: P.A. 95-331, eff. 8-21-07; 96-31, eff. 6-30-09.)

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

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

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

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

13 (b) The State Board shall establish by regulation the
14 procedures and requirements regarding issuance of exemptions.
15 An exemption shall be approved when information required by the
16 Board by rule is submitted. Projects eligible for an exemption,
17 rather than a permit, include, but are not limited to, change
18 of ownership of a health care facility. For a change of
19 ownership of a health care facility between related persons,
20 the State Board shall provide by rule for an expedited process
21 for obtaining an exemption. In connection with a change of
22 ownership, the State Board may approve the transfer of an
23 existing permit without regard to whether the permit to be
24 transferred has yet been obligated, except for permits
25 establishing a new facility or a new category of service.

26 (c) All applications shall be signed by the applicant and

1 shall be verified by any 2 officers thereof.

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

16 (d) Upon receipt of an application for a permit, the State
17 Board shall approve and authorize the issuance of a permit if
18 it finds (1) that the applicant is fit, willing, and able to
19 provide a proper standard of health care service for the
20 community with particular regard to the qualification,
21 background and character of the applicant, (2) that economic
22 feasibility is demonstrated in terms of effect on the existing
23 and projected operating budget of the applicant and of the
24 health care facility; in terms of the applicant's ability to
25 establish and operate such facility in accordance with
26 licensure regulations promulgated under pertinent state laws;

1 and in terms of the projected impact on the total health care
2 expenditures in the facility and community, (3) that safeguards
3 are provided which assure that the establishment, construction
4 or modification of the health care facility or acquisition of
5 major medical equipment is consistent with the public interest,
6 and (4) that the proposed project is consistent with the
7 orderly and economic development of such facilities and
8 equipment and is in accord with standards, criteria, or plans
9 of need adopted and approved pursuant to the provisions of
10 Section 12 of this Act.

11 The State Board's standards for its findings under this
12 subsection may include consideration of the population growth,
13 or projected growth, of the area to be served but may not
14 include consideration of the applicant's charity care.

15 (Source: P.A. 95-237, eff. 1-1-08; 96-31, eff. 6-30-09.)

16 (20 ILCS 3960/12.2)

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

18 Sec. 12.2. Powers of the State Board ~~staff~~. For purposes of
19 this Act, the State Board ~~staff~~ shall exercise the following
20 powers and duties:

21 (1) (Blank) ~~Review applications for permits and exemptions~~
22 ~~in accordance with the standards, criteria, and plans of need~~
23 ~~established by the State Board under this Act and certify its~~
24 ~~finding to the State Board.~~

25 (1.5) Post the following on the Board's web site: relevant

1 (i) rules, (ii) standards, (iii) criteria, (iv) State norms,
2 (v) references used by ~~Agency~~ staff in making determinations
3 about whether application criteria are met, and (vi) notices of
4 project-related filings, including notice of public comments
5 related to the application.

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

16 (2.1) Publish the following reports on the State Board
17 website:

18 (A) An annual accounting, aggregated by category and
19 with names of parties redacted, of fees, fines, and other
20 revenue collected as well as expenses incurred, in the
21 administration of this Act.

22 (B) An annual report, with names of the parties
23 redacted, that summarizes all settlement agreements
24 entered into with the State Board that resolve an alleged
25 instance of noncompliance with State Board requirements
26 under this Act.

1 (C) A monthly report that includes the status of
2 applications and recommendations regarding updates to the
3 standard, criteria, or the health plan as appropriate.

4 (D) Board reports showing the degree to which an
5 application conforms to the review standards, a summation
6 of relevant public testimony, and any additional
7 information that staff wants to communicate.

8 (3) Coordinate with other State agencies having
9 responsibilities affecting health care facilities, including
10 the Center for Comprehensive Health Planning and those of
11 licensure and cost reporting.

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

13 (20 ILCS 3960/19.6 rep.)

14 Section 10. The Illinois Health Facilities Planning Act is
15 amended by repealing Section 19.6.

16 Section 95. No acceleration or delay. Where this Act makes
17 changes in a statute that is represented in this Act by text
18 that is not yet or no longer in effect (for example, a Section
19 represented by multiple versions), the use of that text does
20 not accelerate or delay the taking effect of (i) the changes
21 made by this Act or (ii) provisions derived from any other
22 Public Act.

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