



Rep. William Davis

Filed: 3/25/2015

09900HB3133ham001

LRB099 09158 JLK 33333 a

1 AMENDMENT TO HOUSE BILL 3133

2 AMENDMENT NO. _____. Amend House Bill 3133 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Sections 6.2, 12, and 14.1 as follows:

6 (20 ILCS 3960/6.2)

7 (Section scheduled to be repealed on December 31, 2019)

8 Sec. 6.2. Review of permits; State Board Staff Reports.
9 Upon receipt of an application for a permit to establish,
10 construct, or modify a health care facility, the State Board
11 staff shall notify the applicant in writing within 10 working
12 days either that the application is or is not complete. If the
13 application is complete, the State Board staff shall notify the
14 applicant of the beginning of the review process. If the
15 application is not complete, the Board staff shall explain
16 within the 10-day period why the application is incomplete.

1 The State Board staff shall afford a reasonable amount of
2 time as established by the State Board, but not to exceed 120
3 days, for the review of the application. The 120-day period
4 begins on the day the application is found to be substantially
5 complete, as that term is defined by the State Board. During
6 the 120-day period, the applicant may request an extension. An
7 applicant may modify the application at any time before a final
8 administrative decision has been made on the application.

9 ~~The State Board shall prescribe and provide the forms upon~~
10 ~~which the State Board Staff Report shall be made.~~ The State
11 Board staff shall submit its State Board Staff Report to the
12 State Board for its decision-making regarding approval or
13 denial of the permit.

14 When an application for a permit is initially reviewed by
15 State Board staff, as provided in this Section, the State Board
16 shall, upon request by the applicant or an interested person,
17 afford an opportunity for a public hearing within a reasonable
18 amount of time after receipt of the complete application, but
19 not to exceed 90 days after receipt of the complete
20 application. Notice of the hearing shall be made promptly, not
21 less than 10 days before the hearing, by certified mail to the
22 applicant and, not less than 10 days before the hearing, by
23 publication in a newspaper of general circulation in the area
24 or community to be affected. The hearing shall be held in the
25 area or community in which the proposed project is to be
26 located and shall be for the purpose of allowing the applicant

1 and any interested person to present public testimony
2 concerning the approval, denial, renewal, or revocation of the
3 permit. All interested persons attending the hearing shall be
4 given a reasonable opportunity to present their views or
5 arguments in writing or orally, and a record of all of the
6 testimony shall accompany any findings of the State Board
7 staff. The State Board shall adopt reasonable rules and
8 regulations governing the procedure and conduct of the
9 hearings.

10 (Source: P.A. 97-1115, eff. 8-27-12; 98-1086, eff. 8-26-14.)

11 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

13 Sec. 12. Powers and duties of State Board. For purposes of
14 this Act, the State Board shall exercise the following powers
15 and duties:

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

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

4 (3) (Blank).

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

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

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

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

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

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

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

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

12 (g) The financial and economic feasibility of proposed
13 construction or modification; and

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

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

22 (5) Coordinate with the Center for Comprehensive Health
23 Planning and other state agencies having responsibilities
24 affecting health care facilities, including those of licensure
25 and cost reporting. Beginning no later than January 1, 2013,
26 the Department of Public Health shall produce a written annual

1 report to the Governor and the General Assembly regarding the
2 development of the Center for Comprehensive Health Planning.
3 The Chairman of the State Board and the State Board
4 Administrator shall also receive a copy of the annual report.

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

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

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

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

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

7 (b) Projects proposing a (1) new service within an
8 existing healthcare facility or (2) discontinuation of a
9 service within an existing healthcare facility, which
10 shall be reviewed by the Board within 60 days; or

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

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

23 Such rules shall not abridge the right of the Center for
24 Comprehensive Health Planning to make recommendations on the
25 classification and approval of projects, nor shall such rules
26 prevent the conduct of a public hearing upon the timely request

1 of an interested party. Such reviews shall not exceed 60 days
2 from the date the application is declared to be complete.

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

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

17 (10.5) Provide its rationale when voting on an item before
18 it at a State Board meeting in order to comply with subsection
19 (b) of Section 3-108 of the Code of Civil Procedure.

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

1 is scheduled by the Board. ~~State Board members shall provide~~
2 ~~their rationale when voting on an item before the State Board~~
3 ~~at a State Board meeting in order to comply with subsection (b)~~
4 ~~of Section 3-108 of the Administrative Review Law of the Code~~
5 ~~of Civil Procedure.~~ The transcript of the State Board meeting
6 shall be incorporated into the Board's final decision. The
7 staff of the Board shall prepare a written copy of the final
8 decision and the Board shall approve a final copy for inclusion
9 in the formal record. The Board shall consider, for approval,
10 the written draft of the final decision no later than the next
11 scheduled Board meeting. The written decision shall identify
12 the applicable criteria and factors listed in this Act and the
13 Board's regulations that were taken into consideration by the
14 Board when coming to a final decision. If the Board denies or
15 fails to approve an application for permit or exemption, the
16 Board shall include in the final decision a detailed
17 explanation as to why the application was denied and identify
18 what specific criteria or standards the applicant did not
19 fulfill.

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

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

25 (14) Implement public information campaigns to regularly
26 inform the general public about the opportunity for public

1 hearings and public hearing procedures.

2 (15) Establish a separate set of rules and guidelines for
3 long-term care that recognizes that nursing homes are a
4 different business line and service model from other regulated
5 facilities. An open and transparent process shall be developed
6 that considers the following: how skilled nursing fits in the
7 continuum of care with other care providers, modernization of
8 nursing homes, establishment of more private rooms,
9 development of alternative services, and current trends in
10 long-term care services. The Chairman of the Board shall
11 appoint a permanent Health Services Review Board Long-term Care
12 Facility Advisory Subcommittee that shall develop and
13 recommend to the Board the rules to be established by the Board
14 under this paragraph (15). The Subcommittee shall also provide
15 continuous review and commentary on policies and procedures
16 relative to long-term care and the review of related projects.
17 In consultation with other experts from the health field of
18 long-term care, the Board and the Subcommittee shall study new
19 approaches to the current bed need formula and Health Service
20 Area boundaries to encourage flexibility and innovation in
21 design models reflective of the changing long-term care
22 marketplace and consumer preferences. The Subcommittee shall
23 evaluate, and make recommendations to the State Board
24 regarding, the buying, selling, and exchange of beds between
25 long-term care facilities within a specified geographic area or
26 drive time. The Board shall file the proposed related

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

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

18 (17) ~~(16)~~ Establish a separate set of rules and guidelines
19 for facilities licensed under the Specialized Mental Health
20 Rehabilitation Act of 2013. An application for the
21 re-establishment of a facility in connection with the
22 relocation of the facility shall not be granted unless the
23 applicant has a contractual relationship with at least one
24 hospital to provide emergency and inpatient mental health
25 services required by facility consumers, and at least one
26 community mental health agency to provide oversight and

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

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 97-1045, eff. 8-21-13; 97-1115, eff. 8-27-12;
22 98-414, eff. 1-1-14; 98-463, eff. 8-16-13; 98-651, eff.
23 6-16-14; 98-1086, eff. 8-26-14; revised 10-1-14.)

24 (20 ILCS 3960/14.1)

25 Sec. 14.1. Denial of permit; other sanctions.

1 (a) The State Board may deny an application for a permit or
2 may revoke or take other action as permitted by this Act with
3 regard to a permit as the State Board deems appropriate,
4 including the imposition of fines as set forth in this Section,
5 for any one or a combination of the following:

6 (1) The acquisition of major medical equipment without
7 a permit or in violation of the terms of a permit.

8 (2) The establishment, construction, ~~or~~ modification,
9 or change of ownership of a health care facility without a
10 permit or exemption or in violation of the terms of a
11 permit.

12 (3) The violation of any provision of this Act or any
13 rule adopted under this Act.

14 (4) The failure, by any person subject to this Act, to
15 provide information requested by the State Board or Agency
16 within 30 days after a formal written request for the
17 information.

18 (5) The failure to pay any fine imposed under this
19 Section within 30 days of its imposition.

20 (a-5) For facilities licensed under the ID/DD Community
21 Care Act, no permit shall be denied on the basis of prior
22 operator history, other than for actions specified under item
23 (2), (4), or (5) of Section 3-117 of the ID/DD Community Care
24 Act. For facilities licensed under the Specialized Mental
25 Health Rehabilitation Act, no permit shall be denied on the
26 basis of prior operator history, other than for actions

1 specified under item (2), (4), or (5) of Section 3-117 of the
2 Specialized Mental Health Rehabilitation Act. For facilities
3 licensed under the Nursing Home Care Act, no permit shall be
4 denied on the basis of prior operator history, other than for:
5 (i) actions specified under item (2), (3), (4), (5), or (6) of
6 Section 3-117 of the Nursing Home Care Act; (ii) actions
7 specified under item (a)(6) of Section 3-119 of the Nursing
8 Home Care Act; or (iii) actions within the preceding 5 years
9 constituting a substantial and repeated failure to comply with
10 the Nursing Home Care Act or the rules and regulations adopted
11 by the Department under that Act. The State Board shall not
12 deny a permit on account of any action described in this
13 subsection (a-5) without also considering all such actions in
14 the light of all relevant information available to the State
15 Board, including whether the permit is sought to substantially
16 comply with a mandatory or voluntary plan of correction
17 associated with any action described in this subsection (a-5).

18 (b) Persons shall be subject to fines as follows:

19 (1) A permit holder who fails to comply with the
20 requirements of maintaining a valid permit shall be fined
21 an amount not to exceed 1% of the approved permit amount
22 plus an additional 1% of the approved permit amount for
23 each 30-day period, or fraction thereof, that the violation
24 continues.

25 (2) A permit holder who alters the scope of an approved
26 project or whose project costs exceed the allowable permit

1 amount without first obtaining approval from the State
2 Board shall be fined an amount not to exceed the sum of (i)
3 the lesser of \$25,000 or 2% of the approved permit amount
4 and (ii) in those cases where the approved permit amount is
5 exceeded by more than \$1,000,000, an additional \$20,000 for
6 each \$1,000,000, or fraction thereof, in excess of the
7 approved permit amount.

8 (2.5) A permit holder who fails to comply with the
9 post-permit and reporting requirements set forth in
10 Section 5 shall be fined an amount not to exceed \$10,000
11 plus an additional \$10,000 for each 30-day period, or
12 fraction thereof, that the violation continues. This fine
13 shall continue to accrue until the date that (i) the
14 post-permit requirements are met and the post-permit
15 reports are received by the State Board or (ii) the matter
16 is referred by the State Board to the State Board's legal
17 counsel. The accrued fine is not waived by the permit
18 holder submitting the required information and reports.
19 Prior to any fine beginning to accrue, the Board shall
20 notify, in writing, a permit holder of the due date for the
21 post-permit and reporting requirements no later than 30
22 days before the due date for the requirements. This
23 paragraph (2.5) takes effect 6 months after August 27, 2012
24 (the effective date of Public Act 97-1115).

25 (3) A person who acquires major medical equipment or
26 who establishes a category of service without first

1 obtaining a permit or exemption, as the case may be, shall
2 be fined an amount not to exceed \$10,000 for each such
3 acquisition or category of service established plus an
4 additional \$10,000 for each 30-day period, or fraction
5 thereof, that the violation continues.

6 (4) A person who constructs, modifies, ~~or~~ establishes,
7 or changes ownership of a health care facility without
8 first obtaining a permit or exemption shall be fined an
9 amount not to exceed \$25,000 plus an additional \$25,000 for
10 each 30-day period, or fraction thereof, that the violation
11 continues.

12 (5) A person who discontinues a health care facility or
13 a category of service without first obtaining a permit or
14 exemption shall be fined an amount not to exceed \$10,000
15 plus an additional \$10,000 for each 30-day period, or
16 fraction thereof, that the violation continues. For
17 purposes of this subparagraph (5), facilities licensed
18 under the Nursing Home Care Act or the ID/DD Community Care
19 Act, with the exceptions of facilities operated by a county
20 or Illinois Veterans Homes, are exempt from this permit
21 requirement. However, facilities licensed under the
22 Nursing Home Care Act or the ID/DD Community Care Act must
23 comply with Section 3-423 of the Nursing Home Care Act or
24 Section 3-423 of the ID/DD Community Care Act and must
25 provide the Board and the Department of Human Services with
26 30 days' written notice of its intent to close. Facilities

1 licensed under the ID/DD Community Care Act also must
2 provide the Board and the Department of Human Services with
3 30 days' written notice of its intent to reduce the number
4 of beds for a facility.

5 (6) A person subject to this Act who fails to provide
6 information requested by the State Board or Agency within
7 30 days of a formal written request shall be fined an
8 amount not to exceed \$1,000 plus an additional \$1,000 for
9 each 30-day period, or fraction thereof, that the
10 information is not received by the State Board or Agency.

11 (b-5) The State Board may accept in-kind services instead
12 of or in combination with the imposition of a fine. This
13 authorization is limited to cases where the non-compliant
14 individual or entity has waived the right to an administrative
15 hearing or opportunity to appear before the Board regarding the
16 non-compliant matter.

17 (c) Before imposing any fine authorized under this Section,
18 the State Board shall afford the person or permit holder, as
19 the case may be, an appearance before the State Board and an
20 opportunity for a hearing before a hearing officer appointed by
21 the State Board. The hearing shall be conducted in accordance
22 with Section 10. Requests for an appearance before the State
23 Board must be made within 30 days after receiving notice that a
24 fine will be imposed.

25 (d) All fines collected under this Act shall be transmitted
26 to the State Treasurer, who shall deposit them into the

1 Illinois Health Facilities Planning Fund.

2 (e) Fines imposed under this Section shall continue to
3 accrue until: (i) the date that the matter is referred by the
4 State Board to the Board's legal counsel; or (ii) the date that
5 the health care facility becomes compliant with the Act,
6 whichever is earlier.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 97-980, eff. 8-17-12; 97-1115, eff. 8-27-12;
9 98-463, eff. 8-16-13.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."