

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, 8.5, 10, and 14.1 as
6 follows:

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

8 (Section scheduled to be repealed on December 31, 2019)

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

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

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

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

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

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

1 effect as of the date of application.

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

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

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

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

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

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

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

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

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

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

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

1 is in excess of the capital expenditure minimum.

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

4 (1) Federally-owned facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 "Non-clinical service area" means an area (i) for the
22 benefit of the patients, visitors, staff, or employees of a
23 health care facility and (ii) not directly related to the
24 diagnosis, treatment, or rehabilitation of persons receiving
25 services from the health care facility. "Non-clinical service
26 areas" include, but are not limited to, chapels; gift shops;

1 news stands; computer systems; tunnels, walkways, and
2 elevators; telephone systems; projects to comply with life
3 safety codes; educational facilities; student housing;
4 patient, employee, staff, and visitor dining areas;
5 administration and volunteer offices; modernization of
6 structural components (such as roof replacement and masonry
7 work); boiler repair or replacement; vehicle maintenance and
8 storage facilities; parking facilities; mechanical systems for
9 heating, ventilation, and air conditioning; loading docks; and
10 repair or replacement of carpeting, tile, wall coverings,
11 window coverings or treatments, or furniture. Solely for the
12 purpose of this definition, "non-clinical service area" does
13 not include health and fitness centers.

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

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

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

26 "Licensed health care professional" means a person

1 licensed to practice a health profession under pertinent
2 licensing statutes of the State of Illinois.

3 "Director" means the Director of the Illinois Department of
4 Public Health.

5 "Agency" or "Department" means the Illinois Department of
6 Public Health.

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

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

26 "Change of ownership of a health care facility" means a

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

6 "Related person" means any person that: (i) is at least 50%
7 owned, directly or indirectly, by either the health care
8 facility or a person owning, directly or indirectly, at least
9 50% of the health care facility; or (ii) owns, directly or
10 indirectly, at least 50% of the health care facility.

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

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

17 "Category of service" means a grouping by generic class of
18 various types or levels of support functions, equipment, care,
19 or treatment provided to patients or residents, including, but
20 not limited to, classes such as medical-surgical, pediatrics,
21 or cardiac catheterization. A category of service may include
22 subcategories or levels of care that identify a particular
23 degree or type of care within the category of service. Nothing
24 in this definition shall be construed to include the practice
25 of a physician or other licensed health care professional while
26 functioning in an office providing for the care, diagnosis, or

1 treatment of patients. A category of service that is subject to
2 the Board's jurisdiction must be designated in rules adopted by
3 the Board.

4 "State Board Staff Report" means the document that sets
5 forth the review and findings of the State Board staff, as
6 prescribed by the State Board, regarding applications subject
7 to Board jurisdiction.

8 (Source: P.A. 98-414, eff. 1-1-14; 98-629, eff. 1-1-15; 98-651,
9 eff. 6-16-14; 98-1086, eff. 8-26-14; 99-78, eff. 7-20-15;
10 99-180, eff. 7-29-15.)

11 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

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

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

19 (a) There is created the Health Facilities and Services
20 Review Board, which shall perform the functions described in
21 this Act. The Department shall provide operational support to
22 the Board as necessary, including the provision of office
23 space, supplies, and clerical, financial, and accounting
24 services. The Board may contract for functions or operational
25 support as needed. The Board may also contract with experts

1 related to specific health services or facilities and create
2 technical advisory panels to assist in the development of
3 criteria, standards, and procedures used in the evaluation of
4 applications for permit and exemption.

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

12 Each member shall have a reasonable knowledge of the
13 practice, procedures and principles of the health care delivery
14 system in Illinois, including at least 5 members who shall be
15 knowledgeable about health care delivery systems, health
16 systems planning, finance, or the management of health care
17 facilities currently regulated under the Act. One member shall
18 be a representative of a non-profit health care consumer
19 advocacy organization. A spouse, parent, sibling, or child of a
20 Board member cannot be an employee, agent, or under contract
21 with services or facilities subject to the Act. Prior to
22 appointment and in the course of service on the Board, members
23 of the Board shall disclose the employment or other financial
24 interest of any other relative of the member, if known, in
25 service or facilities subject to the Act. Members of the Board
26 shall declare any conflict of interest that may exist with

1 respect to the status of those relatives and recuse themselves
2 from voting on any issue for which a conflict of interest is
3 declared. No person shall be appointed or continue to serve as
4 a member of the State Board who is, or whose spouse, parent,
5 sibling, or child is, a member of the Board of Directors of,
6 has a financial interest in, or has a business relationship
7 with a health care facility.

8 Notwithstanding any provision of this Section to the
9 contrary, the term of office of each member of the State Board
10 serving on the day before the effective date of this amendatory
11 Act of the 96th General Assembly is abolished on the date upon
12 which members of the 9-member Board, as established by this
13 amendatory Act of the 96th General Assembly, have been
14 appointed and can begin to take action as a Board. Members of
15 the State Board serving on the day before the effective date of
16 this amendatory Act of the 96th General Assembly may be
17 reappointed to the 9-member Board. Prior to March 1, 2010, the
18 Health Facilities Planning Board shall establish a plan to
19 transition its powers and duties to the Health Facilities and
20 Services Review Board.

21 (c) The State Board shall be appointed by the Governor,
22 with the advice and consent of the Senate. Not more than 5 of
23 the appointments shall be of the same political party at the
24 time of the appointment.

25 The Secretary of Human Services, the Director of Healthcare
26 and Family Services, and the Director of Public Health, or

1 their designated representatives, shall serve as ex-officio,
2 non-voting members of the State Board.

3 (d) Of those 9 members initially appointed by the Governor
4 following the effective date of this amendatory Act of the 96th
5 General Assembly, 3 shall serve for terms expiring July 1,
6 2011, 3 shall serve for terms expiring July 1, 2012, and 3
7 shall serve for terms expiring July 1, 2013. Thereafter, each
8 appointed member shall hold office for a term of 3 years,
9 provided that any member appointed to fill a vacancy occurring
10 prior to the expiration of the term for which his or her
11 predecessor was appointed shall be appointed for the remainder
12 of such term and the term of office of each successor shall
13 commence on July 1 of the year in which his predecessor's term
14 expires. Each member appointed after the effective date of this
15 amendatory Act of the 96th General Assembly shall hold office
16 until his or her successor is appointed and qualified. The
17 Governor may reappoint a member for additional terms, but no
18 member shall serve more than 3 terms, subject to review and
19 re-approval every 3 years.

20 (e) State Board members, while serving on business of the
21 State Board, shall receive actual and necessary travel and
22 subsistence expenses while so serving away from their places of
23 residence. Until March 1, 2010, a member of the State Board who
24 experiences a significant financial hardship due to the loss of
25 income on days of attendance at meetings or while otherwise
26 engaged in the business of the State Board may be paid a

1 hardship allowance, as determined by and subject to the
2 approval of the Governor's Travel Control Board.

3 (f) The Governor shall designate one of the members to
4 serve as the Chairman of the Board, who shall be a person with
5 expertise in health care delivery system planning, finance or
6 management of health care facilities that are regulated under
7 the Act. The Chairman shall annually review Board member
8 performance and shall report the attendance record of each
9 Board member to the General Assembly.

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

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

17 (i) Five members of the State Board shall constitute a
18 quorum. The affirmative vote of 5 of the members of the State
19 Board shall be necessary for any action requiring a vote to be
20 taken by the State Board. A vacancy in the membership of the
21 State Board shall not impair the right of a quorum to exercise
22 all the rights and perform all the duties of the State Board as
23 provided by this Act.

24 (j) A State Board member shall disqualify himself or
25 herself from the consideration of any application for a permit
26 or exemption in which the State Board member or the State Board

1 member's spouse, parent, sibling, or child: (i) has an economic
2 interest in the matter; or (ii) is employed by, serves as a
3 consultant for, or is a member of the governing board of the
4 applicant or a party opposing the application.

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

7 (Source: P.A. 96-31, eff. 6-30-09; 97-1115, eff. 8-27-12.)

8 (20 ILCS 3960/8.5)

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

10 Sec. 8.5. Certificate of exemption for change of ownership
11 of a health care facility; discontinuation of a health care
12 facility or category of service; public notice and public
13 hearing.

14 (a) Upon a finding that an application for a change of
15 ownership is complete, the State Board shall publish a legal
16 notice on one day in a newspaper of general circulation in the
17 area or community to be affected and afford the public an
18 opportunity to request a hearing. If the application is for a
19 facility located in a Metropolitan Statistical Area, an
20 additional legal notice shall be published in a newspaper of
21 limited circulation, if one exists, in the area in which the
22 facility is located. If the newspaper of limited circulation is
23 published on a daily basis, the additional legal notice shall
24 be published on one day. The applicant shall pay the cost
25 incurred by the Board in publishing the change of ownership

1 notice in newspapers as required under this subsection. The
2 legal notice shall also be posted on the Health Facilities and
3 Services Review Board's web site and sent to the State
4 Representative and State Senator of the district in which the
5 health care facility is located. An application for change of
6 ownership of a hospital shall not be deemed complete without a
7 signed certification that for a period of 2 years after the
8 change of ownership transaction is effective, the hospital will
9 not adopt a charity care policy that is more restrictive than
10 the policy in effect during the year prior to the transaction.
11 An application for a change of ownership need not contain
12 signed transaction documents so long as it includes the
13 following key terms of the transaction: names and background of
14 the parties; structure of the transaction; the person who will
15 be the licensed or certified entity after the transaction; the
16 ownership or membership interests in such licensed or certified
17 entity both prior to and after the transaction; fair market
18 value of assets to be transferred; and the purchase price or
19 other form of consideration to be provided for those assets.
20 The issuance of the certificate of exemption shall be
21 contingent upon the applicant submitting a statement to the
22 Board within 90 days after the closing date of the transaction,
23 or such longer period as provided by the Board, certifying that
24 the change of ownership has been completed in accordance with
25 the key terms contained in the application. If such key terms
26 of the transaction change, a new application shall be required.

1 Where a change of ownership is among related persons, and
2 there are no other changes being proposed at the health care
3 facility that would otherwise require a permit or exemption
4 under this Act, the applicant shall submit an application
5 consisting of a standard notice in a form set forth by the
6 Board briefly explaining the reasons for the proposed change of
7 ownership. Once such an application is submitted to the Board
8 and reviewed by the Board staff, the Board Chair shall take
9 action on an application for an exemption for a change of
10 ownership among related persons within 45 days after the
11 application has been deemed complete, provided the application
12 meets the applicable standards under this Section. If the Board
13 Chair has a conflict of interest or for other good cause, the
14 Chair may request review by the Board. Notwithstanding any
15 other provision of this Act, for purposes of this Section, a
16 change of ownership among related persons means a transaction
17 where the parties to the transaction are under common control
18 or ownership before and after the transaction is completed.

19 Nothing in this Act shall be construed as authorizing the
20 Board to impose any conditions, obligations, or limitations,
21 other than those required by this Section, with respect to the
22 issuance of an exemption for a change of ownership, including,
23 but not limited to, the time period before which a subsequent
24 change of ownership of the health care facility could be
25 sought, or the commitment to continue to offer for a specified
26 time period any services currently offered by the health care

1 facility.

2 (a-3) Upon a finding that an application to close a health
3 care facility is complete, the State Board shall publish a
4 legal notice on 3 consecutive days in a newspaper of general
5 circulation in the area or community to be affected and afford
6 the public an opportunity to request a hearing. If the
7 application is for a facility located in a Metropolitan
8 Statistical Area, an additional legal notice shall be published
9 in a newspaper of limited circulation, if one exists, in the
10 area in which the facility is located. If the newspaper of
11 limited circulation is published on a daily basis, the
12 additional legal notice shall be published on 3 consecutive
13 days. The legal notice shall also be posted on the Health
14 Facilities and Services Review Board's web site and sent to the
15 State Representative and State Senator of the district in which
16 the health care facility is located. No later than 90 days
17 after a discontinuation of a health facility, the applicant
18 must submit a statement to the State Board certifying that the
19 discontinuation is complete.

20 (a-5) Upon a finding that an application to discontinue a
21 category of service is complete and provides the requested
22 information, as specified by the State Board, an exemption
23 shall be issued. No later than 30 days after the issuance of
24 the exemption, the health care facility must give written
25 notice of the discontinuation of the category of service to the
26 State Senator and State Representative serving the legislative

1 district in which the health care facility is located. No later
2 than 90 days after a discontinuation of a category of service,
3 the applicant must submit a statement to the State Board
4 certifying that the discontinuation is complete.

5 (b) If a public hearing is requested, it shall be held at
6 least 15 days but no more than 30 days after the date of
7 publication of the legal notice in the community in which the
8 facility is located. The hearing shall be held in a place of
9 reasonable size and accessibility and a full and complete
10 written transcript of the proceedings shall be made. All
11 interested persons attending the hearing shall be given a
12 reasonable opportunity to present their positions in writing or
13 orally. The applicant shall provide a summary of the proposal
14 for distribution at the public hearing.

15 (c) For the purposes of this Section "newspaper of limited
16 circulation" means a newspaper intended to serve a particular
17 or defined population of a specific geographic area within a
18 Metropolitan Statistical Area such as a municipality, town,
19 village, township, or community area, but does not include
20 publications of professional and trade associations.

21 (Source: P.A. 98-1086, eff. 8-26-14; 99-154, eff. 7-28-15.)

22 (20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)

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

24 Sec. 10. Presenting information relevant to the approval of
25 a permit or certificate or in opposition to the denial of the

1 application; notice of outcome and review proceedings. When a
2 motion by the State Board, to approve an application for a
3 permit ~~or a certificate of recognition~~, fails to pass, or when
4 a motion to deny an application for a permit ~~or a certificate~~
5 ~~of recognition~~ is passed, the applicant or the holder of the
6 permit, as the case may be, and such other parties as the State
7 Board permits, will be given an opportunity to appear before
8 the State Board and present such information as may be relevant
9 to the approval of a permit ~~or certificate~~ or in opposition to
10 the denial of the application.

11 Subsequent to an appearance by the applicant before the
12 State Board or default of such opportunity to appear, a motion
13 by the State Board to approve an application for a permit ~~or a~~
14 ~~certificate of recognition~~ which fails to pass or a motion to
15 deny an application for a permit ~~or a certificate of~~
16 ~~recognition~~ which passes shall be considered denial of the
17 application for a permit ~~or certificate of recognition~~, as the
18 case may be. Such action of denial or an action by the State
19 Board to revoke a permit ~~or a certificate of recognition~~ shall
20 be communicated to the applicant or holder of the permit ~~or~~
21 ~~certificate of recognition~~. Such person or organization shall
22 be afforded an opportunity for a hearing before an
23 administrative law judge, who is appointed by the Chairman of
24 the State Board. A written notice of a request for such hearing
25 shall be served upon the Chairman of the State Board within 30
26 days following notification of the decision of the State Board.

1 The administrative law judge shall take actions necessary to
2 ensure that the hearing is completed within a reasonable period
3 of time, but not to exceed 120 days, except for delays or
4 continuances agreed to by the person requesting the hearing.
5 Following its consideration of the report of the hearing, or
6 upon default of the party to the hearing, the State Board shall
7 make its final determination, specifying its findings and
8 conclusions within 90 days of receiving the written report of
9 the hearing. A copy of such determination shall be sent by
10 certified mail or served personally upon the party.

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

21 The State Board or hearing officer shall upon its own or
22 his motion, or on the written request of any party to the
23 proceeding who has, in the State Board's or hearing officer's
24 opinion, demonstrated the relevancy of such request to the
25 outcome of the proceedings, issue subpoenas requiring the
26 attendance and the giving of testimony by witnesses, and

1 subpoenas duces tecum requiring the production of books,
2 papers, records, or memoranda. The fees of witnesses for
3 attendance and travel shall be the same as the fees of
4 witnesses before the circuit court of this State.

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

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

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

1 (20 ILCS 3960/14.1)

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

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

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

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

14 (3) The violation of any provision of this Act or any
15 rule adopted under this Act.

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

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

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

1 Act. For facilities licensed under the MC/DD Act, no permit
2 shall be denied on the basis of prior operator history, other
3 than for actions specified under item (2), (4), or (5) of
4 Section 3-117 of the MC/DD Act. For facilities licensed under
5 the Specialized Mental Health Rehabilitation Act of 2013, no
6 permit shall be denied on the basis of prior operator history,
7 other than for actions specified under subsections (a) and (b)
8 ~~item (2), (4), or (5)~~ of Section 4-109 ~~3-117~~ of the Specialized
9 Mental Health Rehabilitation Act of 2013. For facilities
10 licensed under the Nursing Home Care Act, no permit shall be
11 denied on the basis of prior operator history, other than for:
12 (i) actions specified under item (2), (3), (4), (5), or (6) of
13 Section 3-117 of the Nursing Home Care Act; (ii) actions
14 specified under item (a)(6) of Section 3-119 of the Nursing
15 Home Care Act; or (iii) actions within the preceding 5 years
16 constituting a substantial and repeated failure to comply with
17 the Nursing Home Care Act or the rules and regulations adopted
18 by the Department under that Act. The State Board shall not
19 deny a permit on account of any action described in this
20 subsection (a-5) without also considering all such actions in
21 the light of all relevant information available to the State
22 Board, including whether the permit is sought to substantially
23 comply with a mandatory or voluntary plan of correction
24 associated with any action described in this subsection (a-5).

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

26 (1) A permit holder who fails to comply with the

1 requirements of maintaining a valid permit shall be fined
2 an amount not to exceed 1% of the approved permit amount
3 plus an additional 1% of the approved permit amount for
4 each 30-day period, or fraction thereof, that the violation
5 continues.

6 (2) A permit holder who alters the scope of an approved
7 project or whose project costs exceed the allowable permit
8 amount without first obtaining approval from the State
9 Board shall be fined an amount not to exceed the sum of (i)
10 the lesser of \$25,000 or 2% of the approved permit amount
11 and (ii) in those cases where the approved permit amount is
12 exceeded by more than \$1,000,000, an additional \$20,000 for
13 each \$1,000,000, or fraction thereof, in excess of the
14 approved permit amount.

15 (2.5) A permit holder who fails to comply with the
16 post-permit and reporting requirements set forth in
17 Sections ~~Section~~ 5 and 8.5 shall be fined an amount not to
18 exceed \$10,000 plus an additional \$10,000 for each 30-day
19 period, or fraction thereof, that the violation continues.
20 This fine shall continue to accrue until the date that (i)
21 the post-permit requirements are met and the post-permit or
22 post-exemption reports are received by the State Board or
23 (ii) the matter is referred by the State Board to the State
24 Board's legal counsel. The accrued fine is not waived by
25 the permit holder submitting the required information and
26 reports. Prior to any fine beginning to accrue, the Board

1 shall notify, in writing, a permit holder of the due date
2 for the post-permit and reporting requirements no later
3 than 30 days before the due date for the requirements. This
4 paragraph (2.5) takes effect 6 months after August 27, 2012
5 (the effective date of Public Act 97-1115).

6 (3) A person who acquires major medical equipment or
7 who establishes a category of service without first
8 obtaining a permit or exemption, as the case may be, shall
9 be fined an amount not to exceed \$10,000 for each such
10 acquisition or category of service established plus an
11 additional \$10,000 for each 30-day period, or fraction
12 thereof, that the violation continues.

13 (4) A person who constructs, modifies, establishes, or
14 changes ownership of a health care facility without first
15 obtaining a permit or exemption shall be fined an amount
16 not to exceed \$25,000 plus an additional \$25,000 for each
17 30-day period, or fraction thereof, that the violation
18 continues.

19 (5) A person who discontinues a health care facility or
20 a category of service without first obtaining a permit or
21 exemption shall be fined an amount not to exceed \$10,000
22 plus an additional \$10,000 for each 30-day period, or
23 fraction thereof, that the violation continues. For
24 purposes of this subparagraph (5), facilities licensed
25 under the Nursing Home Care Act, the ID/DD Community Care
26 Act, or the MC/DD Act, with the exceptions of facilities

1 operated by a county or Illinois Veterans Homes, are exempt
2 from this permit requirement. However, facilities licensed
3 under the Nursing Home Care Act, the ID/DD Community Care
4 Act, or the MC/DD Act must comply with Section 3-423 of the
5 Nursing Home Care Act, Section 3-423 of the ID/DD Community
6 Care Act, or Section 3-423 of the MC/DD Act and must
7 provide the Board and the Department of Human Services with
8 30 days' written notice of their intent to close.
9 Facilities licensed under the ID/DD Community Care Act or
10 the MC/DD Act also must provide the Board and the
11 Department of Human Services with 30 days' written notice
12 of their intent to reduce the number of beds for a
13 facility.

14 (6) A person subject to this Act who fails to provide
15 information requested by the State Board or Agency within
16 30 days of a formal written request shall be fined an
17 amount not to exceed \$1,000 plus an additional \$1,000 for
18 each 30-day period, or fraction thereof, that the
19 information is not received by the State Board or Agency.

20 (b-5) The State Board may accept in-kind services instead
21 of or in combination with the imposition of a fine. This
22 authorization is limited to cases where the non-compliant
23 individual or entity has waived the right to an administrative
24 hearing or opportunity to appear before the Board regarding the
25 non-compliant matter.

26 (c) Before imposing any fine authorized under this Section,

1 the State Board shall afford the person or permit holder, as
2 the case may be, an appearance before the State Board and an
3 opportunity for a hearing before a hearing officer appointed by
4 the State Board. The hearing shall be conducted in accordance
5 with Section 10. Requests for an appearance before the State
6 Board must be made within 30 days after receiving notice that a
7 fine will be imposed.

8 (d) All fines collected under this Act shall be transmitted
9 to the State Treasurer, who shall deposit them into the
10 Illinois Health Facilities Planning Fund.

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

16 (Source: P.A. 98-463, eff. 8-16-13; 99-114, eff. 7-23-15;
17 99-180, eff. 7-29-15; revised 10-14-15.)