

AN ACT concerning State government.

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

Section 5. The Illinois Health Facilities Planning Act is amended by changing Sections 4, 5, 6, 10, 12, 12.5, and 14.1 and adding Sections 6.2 and 19.5.1 as follows:

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

(Section scheduled to be repealed on December 31, 2019)

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

(a) There is created the Health Facilities and Services Review Board, which shall perform the functions described in this Act. The Department shall provide operational support to the Board, including the provision of office space, supplies, and clerical, financial, and accounting services. The Board may contract with experts related to specific health services or facilities and create technical advisory panels to assist in the development of criteria, standards, and procedures used in the evaluation of applications for permit and exemption.

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

Each member shall have a reasonable knowledge of the practice, procedures and principles of the health care delivery system in Illinois, including at least 5 members who shall be knowledgeable about health care delivery systems, health systems planning, finance, or the management of health care facilities currently regulated under the Act. One member shall be a representative of a non-profit health care consumer advocacy organization. A spouse, parent, sibling, or child ~~Spouses or other members of the immediate family~~ of a ~~the~~ Board member cannot be an employee, agent, or under contract with services or facilities subject to the Act. Prior to appointment and in the course of service on the Board, members of the Board shall disclose the employment or other financial interest of any other relative of the member, if known, in service or facilities subject to the Act. Members of the Board shall declare any conflict of interest that may exist with respect to the status of those relatives and recuse themselves from voting on any issue for which a conflict of interest is declared. No person shall be appointed or continue to serve as a member of

the State Board who is, or whose spouse, parent, sibling, or child is, a member of the Board of Directors of, has a financial interest in, or has a business relationship with a health care facility.

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

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

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

(d) Of those 9 members initially appointed by the Governor

following the effective date of this amendatory Act of the 96th General Assembly, 3 shall serve for terms expiring July 1, 2011, 3 shall serve for terms expiring July 1, 2012, and 3 shall serve for terms expiring July 1, 2013. Thereafter, each appointed member shall hold office for a term of 3 years, provided that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term and the term of office of each successor shall commence on July 1 of the year in which his predecessor's term expires. Each member appointed after the effective date of this amendatory Act of the 96th General Assembly shall hold office until his or her successor is appointed and qualified. The Governor may reappoint a member for additional terms, but no member shall serve more than 3 terms, subject to review and re-approval every 3 years.

(e) State Board members, while serving on business of the State Board, shall receive actual and necessary travel and subsistence expenses while so serving away from their places of residence. Until March 1, 2010, a member of the State Board who experiences a significant financial hardship due to the loss of income on days of attendance at meetings or while otherwise engaged in the business of the State Board may be paid a hardship allowance, as determined by and subject to the approval of the Governor's Travel Control Board.

(f) The Governor shall designate one of the members to

serve as the Chairman of the Board, who shall be a person with expertise in health care delivery system planning, finance or management of health care facilities that are regulated under the Act. The Chairman shall annually review Board member performance and shall report the attendance record of each Board member to the General Assembly.

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

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

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

(j) A State Board member shall disqualify himself or herself from the consideration of any application for a permit or exemption in which the State Board member or the State Board member's spouse, parent, sibling, or child: (i) has an economic interest in the matter; or (ii) is employed by, serves as a consultant for, or is a member of the governing board of the

applicant or a party opposing the application.

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

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

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

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

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

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

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

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

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

A permit shall be valid only for the defined construction or modifications, site, amount and person named in the application for such permit and shall not be transferable or assignable. A permit shall be valid until such time as the project has been completed, provided that ~~(a) obligation of the project occurs within 12 months following issuance of the permit except for major construction projects such obligation must occur within 18 months following issuance of the permit;~~ and ~~(b)~~ the project commences and proceeds to completion with due diligence by the completion date or extension date approved by the Board.

A permit holder must do the following: (i) submit the final completion and cost report for the project within 90 days after the approved project completion date or extension date and (ii) submit annual progress reports no earlier than 30 days before and no later than 30 days after each anniversary date of the Board's approval of the permit until the project is completed.

To maintain a valid permit and to monitor progress toward project commencement and completion, routine post-permit reports shall be limited to annual progress reports and the final completion and cost report. Annual progress reports shall include information regarding the committed funds expended toward the approved project. If the project is not completed in one year, then, by the second annual report, the permit holder shall expend 33% or more of the total project cost or shall make a commitment to expend 33% or more of the total project cost by signed contracts or other legal means, and the report shall contain information regarding those expenditures or commitments. If the project is to be completed in one year, then the first annual report shall contain the expenditure commitment information for the total project cost. The State Board may extend the expenditure commitment period after considering a permit holder's showing of good cause and request for additional time to complete the project.

The Certificate of Need process required under this Act is designed to restrain rising health care costs by preventing unnecessary construction or modification of health care facilities. The Board must assure that the establishment, construction, or modification of a health care facility or the acquisition of major medical equipment is consistent with the public interest and that the proposed project is consistent with the orderly and economic development or acquisition of those facilities and equipment and is in accord with the

standards, criteria, or plans of need adopted and approved by the Board. Board decisions regarding the construction of health care facilities must consider capacity, quality, value, and equity. Projects may deviate from the costs, fees, and expenses provided in their project cost information for the project's cost components, provided that the final total project cost does not exceed the approved permit amount. Project alterations shall not increase the total approved permit amount by more than the limit set forth under the Board's rules.

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

~~The State Board may extend the obligation period upon a showing of good cause by the permit holder.~~ Permits for projects that have not been obligated within the prescribed obligation period shall expire on the last day of that period.

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

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

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

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

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

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

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

(b) The State Board shall establish by regulation the procedures and requirements regarding issuance of exemptions. An exemption shall be approved when information required by the Board by rule is submitted. Projects eligible for an exemption, rather than a permit, include, but are not limited to, change of ownership of a health care facility. For a change of ownership of a health care facility between related persons, the State Board shall provide by rule for an expedited process for obtaining an exemption. In connection with a change of

ownership, the State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service.

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

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

(d) Upon receipt of an application for a permit, the State Board shall approve and authorize the issuance of a permit if it finds (1) that the applicant is fit, willing, and able to provide a proper standard of health care service for the

community with particular regard to the qualification, background and character of the applicant, (2) that economic feasibility is demonstrated in terms of effect on the existing and projected operating budget of the applicant and of the health care facility; in terms of the applicant's ability to establish and operate such facility in accordance with licensure regulations promulgated under pertinent state laws; and in terms of the projected impact on the total health care expenditures in the facility and community, (3) that safeguards are provided which assure that the establishment, construction or modification of the health care facility or acquisition of major medical equipment is consistent with the public interest, and (4) that the proposed project is consistent with the orderly and economic development of such facilities and equipment and is in accord with standards, criteria, or plans of need adopted and approved pursuant to the provisions of Section 12 of this Act.

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

(20 ILCS 3960/6.2 new)

Sec. 6.2. Review of permits. Upon receipt of an application for a permit to establish, construct, or modify a health care facility, the State Board staff shall notify the applicant in writing within 10 working days either that the application is or is not complete. If the application is complete, the State Board staff shall notify the applicant of the beginning of the

review process. If the application is not complete, the Board staff shall explain within the 10-day period why the application is incomplete.

The State Board staff shall afford a reasonable amount of time as established by the State Board, but not to exceed 120 days, for the review of the application. The 120-day period begins on the day the application is found to be substantially complete, as that term is defined by the State Board. During the 120-day period, the applicant may request an extension. An applicant may modify the application at any time before a final administrative decision has been made on the application. The State Board shall prescribe and provide the forms upon which the review and findings of the State Board staff shall be made. The State Board staff shall submit its review and findings to the State Board for its approval or denial of the permit.

When an application for a permit is initially reviewed by State Board staff, as provided in this Section, the State Board shall, upon request by the applicant or an interested person, afford an opportunity for a public hearing within a reasonable amount of time after receipt of the complete application, but not to exceed 90 days after receipt of the complete application. Notice of the hearing shall be made promptly, not less than 10 days before the hearing, by certified mail to the applicant and, not less than 10 days before the hearing, by publication in a newspaper of general circulation in the area or community to be affected. The hearing shall be held in the

area or community in which the proposed project is to be located and shall be for the purpose of allowing the applicant and any interested person to present public testimony concerning the approval, denial, renewal, or revocation of the permit. All interested persons attending the hearing shall be given a reasonable opportunity to present their views or arguments in writing or orally, and a record of all of the testimony shall accompany any findings of the State Board staff. The State Board shall adopt reasonable rules and regulations governing the procedure and conduct of the hearings.

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

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

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

Subsequent to an appearance by the applicant before the State Board or default of such opportunity to appear, a motion by the State Board to approve an application for a permit or a certificate of recognition which fails to pass or a motion to deny an application for a permit or a certificate of recognition which passes shall be considered denial of the application for a permit or certificate of recognition, as the case may be. Such action of denial or an action by the State Board to revoke a permit or a certificate of recognition shall be communicated to the applicant or holder of the permit or certificate of recognition. Such person or organization shall be afforded an opportunity for a hearing before an administrative law judge ~~a hearing officer~~, who is appointed by the Chairman of the State Board ~~Director~~. A written notice of a request for such hearing shall be served upon the Chairman of the State Board within 30 days following notification of the decision of the State Board. ~~The State Board shall schedule a hearing, and the Director shall appoint a hearing officer within 30 days thereafter.~~ The administrative law judge ~~hearing officer~~ shall take actions necessary to ensure that the hearing is completed within a reasonable period of time, but not to exceed 120 ~~90~~ days, except for delays or continuances agreed to by the person requesting the hearing. Following its consideration of the report of the hearing, or upon default of the party to the hearing, the State Board shall make its final determination, specifying its findings and conclusions within

90 ~~45~~ days of receiving the written report of the hearing. A copy of such determination shall be sent by certified mail or served personally upon the party.

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

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

When the witness is subpoenaed at the instance of the State Board, or its hearing officer, such fees shall be paid in the same manner as other expenses of the Agency, and when the

witness is subpoenaed at the instance of any other party to any such proceeding the State Board may, in accordance with the rules of the Agency, require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the State Board in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum so issued shall be served in the same manner as a subpoena issued out of a court.

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

(Source: P.A. 93-41, eff. 6-27-03.)

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

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

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

(1) Prescribe rules, regulations, standards, criteria,

procedures or reviews which may vary according to the purpose for which a particular review is being conducted or the type of project reviewed and which are required to carry out the provisions and purposes of this Act. Policies and procedures of the State Board shall take into consideration the priorities and needs of medically underserved areas and other health care services identified through the comprehensive health planning process, giving special consideration to the impact of projects on access to safety net services.

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

(3) (Blank).

(4) Develop criteria and standards for health care facilities planning, conduct statewide inventories of health care facilities, maintain an updated inventory on the Board's web site reflecting the most recent bed and service changes and updated need determinations when new census data become available or new need formulae are adopted, and develop health care facility plans which shall be utilized in the review of applications for permit under this Act. Such health facility plans shall be coordinated by the Board with pertinent State Plans. Inventories pursuant to this Section of skilled or intermediate care facilities licensed under the Nursing Home Care Act, skilled or intermediate care facilities licensed under the ID/DD Community Care Act, facilities licensed under

the Specialized Mental Health Rehabilitation Act, or nursing homes licensed under the Hospital Licensing Act shall be conducted on an annual basis no later than July 1 of each year and shall include among the information requested a list of all services provided by a facility to its residents and to the community at large and differentiate between active and inactive beds.

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

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

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

(c) The extent of utilization of existing facilities;

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

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

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

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

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

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

(5) Coordinate with the Center for Comprehensive Health Planning and other state agencies having responsibilities affecting health care facilities, including those of licensure and cost reporting. Beginning no later than January 1, 2013, the Department of Public Health shall produce a written annual report to the Governor and the General Assembly regarding the development of the Center for Comprehensive Health Planning. The Chairman of the State Board and the State Board Administrator shall also receive a copy of the annual report.

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

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

(8) Prescribe, in consultation with the Center for

Comprehensive Health Planning, rules, regulations, standards, and criteria for the conduct of an expeditious review of applications for permits for projects of construction or modification of a health care facility, which projects are classified as emergency, substantive, or non-substantive in nature.

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

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

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

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

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

Such rules shall not abridge the right of the Center for Comprehensive Health Planning to make recommendations on the classification and approval of projects, nor shall such rules prevent the conduct of a public hearing upon the timely request of an interested party. Such reviews shall not exceed 60 days from the date the application is declared to be complete.

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

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

(11) Issue written decisions upon request of the applicant

or an adversely affected party to the Board within 30 days of the meeting in which a final decision has been made. A "final decision" for purposes of this Act is the decision to approve or deny an application, or take other actions permitted under this Act, at the time and date of the meeting that such action is scheduled by the Board. The staff of the State Board shall prepare a written copy of the final decision and the State Board shall approve a final copy for inclusion in the formal record. The written decision shall identify the applicable criteria and factors listed in this Act and the Board's regulations that were taken into consideration by the Board when coming to a final decision. If the State Board denies or fails to approve an application for permit or certificate, the State Board shall include in the final decision a detailed explanation as to why the application was denied and identify what specific criteria or standards the applicant did not fulfill.

(12) Require at least one of its members to participate in any public hearing, after the appointment of a majority of the 9 members to the Board.

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

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

(15) Establish a separate set of rules and guidelines for

long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by no later than September 30, 2011 ~~1, 2010~~. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used

to evaluate project applications as provided under Section 12.3 of this Act ~~prior to approval by the Board and promulgation of related rules.~~

(Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-7-11.)

(20 ILCS 3960/12.5)

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

Sec. 12.5. Update existing bed inventory and associated bed need projections. While the Task Force on Health Planning Reform will make long-term recommendations related to the method and formula for calculating the bed inventory and associated bed need projections, there is a current need for the bed inventory to be updated prior to the issuance of the recommendations of the Task Force. Therefore, the State Agency shall immediately update the existing bed inventory and associated bed need projections required by Sections 12 and 12.3 of this Act, using the most recently published historical utilization data, 5-year ~~10-year~~ population projections, and an appropriate migration factor for the medical-surgical and pediatric category of service which shall be no less than 50%. The State Agency shall provide written documentation providing the methodology and rationale used to determine the appropriate migration factor.

(Source: P.A. 95-5, eff. 5-31-07.)

(20 ILCS 3960/14.1)

Sec. 14.1. Denial of permit; other sanctions.

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

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

(2) The establishment, construction, or modification of a health care facility without a permit or in violation of the terms of a permit.

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

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

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

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

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

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

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

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

(2.5) A permit holder who fails to comply with the post-permit and reporting requirements set forth in Section 5 shall be fined an amount not to exceed \$10,000 plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. This fine shall continue to accrue until the date that (i) the post-permit requirements are met and the post-permit reports are received by the State Board or (ii) the matter is referred by the State Board to the State Board's legal counsel. The accrued fine is not waived by the permit holder submitting the required information and reports. Prior to any fine beginning to accrue, the Board shall notify, in writing, a permit holder of the due date for the post-permit and reporting requirements no later than 30 days before the due date for the requirements. This paragraph (2.5) takes effect 6 months after the effective date of this amendatory Act of the 97th General Assembly.

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

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

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

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

(c) Before imposing any fine authorized under this Section, the State Board shall afford the person or permit holder, as the case may be, an appearance before the State Board and an opportunity for a hearing before a hearing officer appointed by the State Board. The hearing shall be conducted in accordance with Section 10.

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

(Source: P.A. 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-7-11.)

(20 ILCS 3960/19.5.1 new)

Sec. 19.5.1. Applicability of changes made by this amendatory Act of the 97th General Assembly. The changes to this Act made by this amendatory Act of the 97th General Assembly apply only to applications or modifications to permit applications filed on or after the effective date of this amendatory Act of the 97th General Assembly.

Section 99. Effective date. This Act takes effect upon

Public Act 097-1115

SB2934 Enrolled

LRB097 18443 PJG 63670 b

becoming law.

INDEX

Statutes amended in order of appearance

20 ILCS 3960/4	from Ch. 111 1/2, par. 1154
20 ILCS 3960/5	from Ch. 111 1/2, par. 1155
20 ILCS 3960/6	from Ch. 111 1/2, par. 1156
20 ILCS 3960/6.2 new	
20 ILCS 3960/10	from Ch. 111 1/2, par. 1160
20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
20 ILCS 3960/12.5	
20 ILCS 3960/14.1	