AN ACT concerning health facilities.

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 3, 4, 5.3, 6, 10, 12, 12.2, 13, and 19.6 and by adding Section 12.3 as follows:

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

(Section scheduled to be repealed on July 1, 2003)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"State Board" means the Health Facilities Planning Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Agency" means the Illinois Department of Public Health.

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

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

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

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

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

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

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

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

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

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

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

Notwithstanding any provision of this Section to the contrary, the term of office of each member of the State Board is abolished on the effective date of this amendatory Act of the 93rd General Assembly, but all incumbent members shall continue to exercise all of the powers and be subject to all of the duties of members of the State Board until all new members of the 9-member State Board authorized under this amendatory Act of the 93rd General Assembly are appointed and take office. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, the State Board shall consist of 9 voting members. ~~The State Board shall consist of 15 voting members, including: 8 consumer members; one member representing the commercial health insurance industry in Illinois; one member representing hospitals in Illinois; one member who is actively engaged in the field of hospital management; one member who is a professional nurse registered in Illinois; one member who is a physician in active private practice licensed in Illinois to practice medicine in all of its branches; one member who is actively engaged in the field of skilled nursing or intermediate care facility management; and one member who is actively engaged in the administration of an ambulatory surgical treatment center licensed under the Ambulatory Surgical Treatment Center Act.~~

The State Board shall be appointed by the Governor, with the advice and consent of the Senate. ~~In--making---the appointments,---the--Governor--shall--give--consideration--to recommendations-made-by-(1)--the--professional--organizations concerned---with---hospital---management---for--the--hospital management--appointment,---(2)---professional---organizations concerned--with--long--term--care-facility-management-for-the long--term--care---facility---management---appointment,---(3) professional---medical---organizations---for---the--physician appointment,-(4)-professional-nursing-organizations--for--the nurse---appointment,---and---(5)--professional--organizations concerned-with-ambulatory-surgical-treatment-centers-for--the ambulatory--surgical--treatment-center-appointment,-and-shall appoint--as--consumer--members--individuals---familiar---with community--health--needs-but-whose-interest-in-the-operation, construction-or-utilization-of--health--care--facilities--are derived---from--factors--other--than--those--related--to--his profession,-business,-or-economic-gain,-and-who-represent,-so far-as-possible,-different-geographic-areas-of-the-State.~~ Not more than 5 8 of the appointments shall be of the same political party. No person shall be appointed as a State Board member if that person has served, after the effective date of this amendatory Act of the 93rd General Assembly, 2 3-year terms as a State Board member, except for ex officio non-voting members.

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

Of those members initially appointed by the Governor under this amendatory Act of the 93rd General Assembly, 3 shall serve for terms expiring July 1, 2004, 3 shall serve for terms expiring July 1, 2005, and 3 shall serve for terms expiring July 1, 2006. Thereafter, ~~as-voting--members,~~ 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 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. ~~In-making--original--appointments to--the-State-Board,-the-Governor-shall-appoint-5-members-for a-term-of-one-year,-5-for-a-term-of-2-years,-and-3-for-a-term of-3-years,-and-each-of-these-terms-of-office-shall--commence on--July--1,-1974.-The-initial-term-of-office-for-the-members appointed-under-this-amendatory-Act-of-1996--shall--begin--on July--1,-1996-and-shall-last-for-2-years,-and-each-subsequent appointment-shall-be-for-a-term-of-3-years.~~ Each member shall hold office until his successor is appointed and qualified.

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. 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. ~~In--addition,--while serving--on--business--of--the-State-Board,-each-member-shall receive-compensation--of--$150--per--day,--except--that--such compensation--shall-not-exceed-$7,500-in-any-one-year-for-any member.~~

The Governor shall designate one of the members to serve as Chairman and ~~The--State-Board-shall-provide-for-its-own organization-and-procedures,-including--the--selection--of--a Chairman--and--such--other-officers-as-deemed-necessary.--The Director,-with-concurrence-of-the-State-Board,~~ shall name as full-time Executive Secretary of the State Board, a person

qualified in health care facility planning and in administration. The Agency shall provide administrative and staff support for the State Board. The State Board shall advise the Director of its budgetary and staff needs and consult with the Director on annual budget preparation.

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

Five ~~Eight~~ members of the State Board shall constitute a quorum. The affirmative vote of 5 ~~8~~ 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.

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, 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.

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

(20 ILCS 3960/5.3)

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

Sec. 5.3. Annual report of capital expenditures. In addition to the State Board's authority to require reports, the State Board shall require each health care facility to submit an annual report of all capital expenditures in excess of $200,000 (which shall be annually adjusted to reflect the increase in construction costs due to inflation) made by the health care facility during the most recent year. This annual report shall consist of a brief description of the

capital expenditure, the amount and method of financing the capital expenditure, the certificate of need project number if the project was reviewed, and the total amount of capital expenditures obligated for the year. Data collected from health care facilities pursuant to this Section shall not duplicate or overlap other data collected by the Department and must be collected as part of the Department's Annual Questionnaires or supplements for health care facilities that report these data.

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

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

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

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. Such application shall include affirmative evidence on which the Director may make the findings required under this Section and upon which the State Board 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.

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

(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. 88-18.)

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

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

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 a hearing officer, who is appointed by the Director ~~State--Board~~. 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 ~~Chairman~~ shall appoint a hearing officer within 30 days thereafter. The hearing officer shall take actions necessary to ensure that the hearing is completed within a reasonable period of time, but not to exceed 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 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. 88-18; 89-276, eff. 8-10-96.)

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

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

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.

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

(4) Develop criteria and standards for health care facilities planning, conduct statewide inventories of health care facilities, maintain an updated inventory on the Department'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 Agency with the health care facility plans areawide health planning organizations and with other pertinent State Plans.

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 other state agencies having responsibilities affecting health care facilities, including those of licensure and cost reporting.

(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 recognized areawide health planning organizations 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, in consultation with the recognized areawide health planning organizations, procedures for review, standards, and criteria which shall be utilized to make periodic areawide 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 areawide health planning organization and the Agency in making its determinations.

(8) Prescribe, in consultation with the recognized areawide health planning organizations, 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 non-substantive in nature. Such rules shall not abridge the right of areawide health planning organizations 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 by the Agency.

(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.

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

(20 ILCS 3960/12.2)

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

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

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

(1.5) Post the following on the Department's web site: relevant (i) rules, (ii) standards, (iii) criteria, (iv) State norms, (v) references used by Agency staff in making determinations about whether application criteria are met, and (vi) notices of project-related filings, including notice of public comments related to the application.

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

(3) Coordinate with other State agencies having responsibilities affecting health care facilities, including

those of licensure and cost reporting.

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

(20 ILCS 3960/12.3 new)

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

Sec. 12.3. Revision of criteria, standards, and rules. Before December 31, 2004, the State Board shall review, revise, and promulgate the criteria, standards, and rules used to evaluate applications for permit. To the extent practicable, the criteria, standards, and rules shall be based on objective criteria. In particular, the review of the criteria, standards, and rules shall consider:

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

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

(3) Whether criteria and standards can be developed to authorize the construction of unfinished space for future use when the ultimate need for such space can be reasonably projected.

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

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

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

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

Sec. 13. Investigation of applications for permits and certificates of recognition. The Agency or the State Board shall make or cause to be made such investigations as it or the State Board deems necessary in connection with an application for a permit or an application for a certificate of recognition, or in connection with a determination of

whether or not construction or modification which has been commenced is in accord with the permit issued by the State Board or whether construction or modification has been commenced without a permit having been obtained. The State Board may issue subpoenas duces tecum requiring the production of records and may administer oaths to such witnesses.

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

The State Board shall require all health facilities operating in this State to provide such reasonable reports at such times and containing such information as is needed by it to carry out the purposes and provisions of this Act. Prior to collecting information from health facilities, the State Board shall make reasonable efforts through a public process to consult with health facilities and associations that represent them to determine whether data and information requests will result in useful information for health planning, whether sufficient information is available from other sources, and whether data requested is routinely collected by health facilities and is available without retrospective record review. Data and information requests shall not impose undue paperwork burdens on health care facilities and personnel. Health facilities not complying with this requirement shall be reported to licensing, accrediting, certifying, or payment agencies as being in violation of State law. Health care facilities and other parties at interest shall have reasonable access, under rules

established by the State Board, to all planning information submitted in accord with this Act pertaining to their area.

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

(20 ILCS 3960/19.6)

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

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

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

Section 10. The Hospital Licensing Act is amended by changing Sections 8, 8.5, and 9.3 and adding Sections 9.4 and 9.5 as follows:

(210 ILCS 85/8) (from Ch. 111 1/2, par. 149)

Sec. 8. Facility plan review; fees.

(a) Before commencing construction of new facilities or specified types of alteration or additions to an existing hospital involving major construction, as defined by rule by the Department, with an estimated cost greater than $100,000, architectural plans and specifications therefor shall be submitted by the licensee to the Department for review and approval. A hospital may submit architectural drawings and specifications for other construction projects for Department review according to subsection (b) that shall not be subject to fees under subsection (d). The Department must give a hospital that is planning to submit a construction project for review the opportunity to discuss its plans and specifications with the Department before the hospital formally submits the plans and specifications for Department review. Review of drawings and specifications shall be conducted by an employee of the Department meeting the qualifications established by the Department of Central Management Services class specifications for such an

individual's position or by a person contracting with the Department who meets those class specifications. Final approval of the plans and specifications for compliance with design and construction standards shall be obtained from the Department before the alteration, addition, or new construction is begun.

(b) The Department shall inform an applicant in writing within 10 working days after receiving drawings and specifications and the required fee, if any, from the applicant whether the applicant's submission is complete or incomplete. Failure to provide the applicant with this notice within 10 working days shall result in the submission being deemed complete for purposes of initiating the 60-day review period under this Section. If the submission is incomplete, the Department shall inform the applicant of the deficiencies with the submission in writing. If the submission is complete and the required fee, if any, has been paid, the Department shall approve or disapprove drawings and specifications submitted to the Department no later than 60 days following receipt by the Department. The drawings and specifications shall be of sufficient detail, as provided by Department rule, to enable the Department to render a determination of compliance with design and construction standards under this Act. If the Department finds that the drawings are not of sufficient detail for it to render a determination of compliance, the plans shall be determined to be incomplete and shall not be considered for purposes of initiating the 60 day review period. If a submission of drawings and specifications is incomplete, the applicant may submit additional information. The 60-day review period shall not commence until the Department determines that a submission of drawings and specifications is complete or the submission is deemed complete. If the Department has not approved or disapproved the drawings and specifications

within 60 days, the construction, major alteration, or addition shall be deemed approved. If the drawings and specifications are disapproved, the Department shall state in writing, with specificity, the reasons for the disapproval. The entity submitting the drawings and specifications may submit additional information in response to the written comments from the Department or request a reconsideration of the disapproval. A final decision of approval or disapproval shall be made within 45 days of the receipt of the additional information or reconsideration request. If denied, the Department shall state the specific reasons for the denial and the applicant may elect to seek dispute resolution pursuant to Section 25 of the Illinois Building Commission Act, which the Department must participate in.

(c) The Department shall provide written approval for occupancy pursuant to subsection (g) and shall not issue a violation to a facility as a result of a licensure or complaint survey based upon the facility's physical structure if:

(1) the Department reviewed and approved or deemed approved the drawing and specifications for compliance with design and construction standards;

(2) the construction, major alteration, or addition was built as submitted;

(3) the law or rules have not been amended since the original approval; and

(4) the conditions at the facility indicate that there is a reasonable degree of safety provided for the patients.

(c-5) The Department shall not issue a violation to a facility if the inspected aspects of the facility were previously found to be in compliance with applicable standards, the relevant law or rules have not been amended, conditions at the facility reasonably protect the safety of

its patients, and alterations or new hazards have not been identified.

(d) The Department shall charge the following fees in connection with its reviews conducted before June 30, 2004 under this Section:

(1) (Blank).

(2) (Blank).

(3) If the estimated dollar value of the major construction is greater than $500,000, the fee shall be established by the Department pursuant to rules that reflect the reasonable and direct cost of the Department in conducting the architectural reviews required under this Section. The estimated dollar value of the major construction subject to review under this Section shall be annually readjusted to reflect the increase in construction costs due to inflation.

The fees provided in this subsection (d) shall not apply to major construction projects involving facility changes that are required by Department rule amendments or to projects related to homeland security.

The fees provided in this subsection (d) shall also not apply to major construction projects if 51% or more of the estimated cost of the project is attributed to capital equipment. For major construction projects where 51% or more of the estimated cost of the project is attributed to capital equipment, the Department shall by rule establish a fee that is reasonably related to the cost of reviewing the project.

Disproportionate share hospitals and rural hospitals shall only pay one-half of the fees required in this subsection (d). For the purposes of this subsection (d), (i) "disproportionate share hospital" means a hospital described in items (1) through (5) of subsection (b) of Section 5-5.02 of the Illinois Public Aid Code and (ii) "rural hospital" means a hospital that is (A) located outside a metropolitan

statistical area or (B) located 15 miles or less from a county that is outside a metropolitan statistical area and is licensed to perform medical/surgical or obstetrical services and has a combined total bed capacity of 75 or fewer beds in these 2 service categories as of July 14, 1993, as determined by the Department.

The Department shall not commence the facility plan review process under this Section until the applicable fee has been paid.

(e) All fees received by the Department under this Section shall be deposited into the Health Facility Plan Review Fund, a special fund created in the State treasury. All fees paid by hospitals under subsection (d) shall be used only to cover the direct and reasonable costs relating to the Department's review of hospital projects under this Section. Moneys shall be appropriated from that Fund to the Department only to pay the costs of conducting reviews under this Section. None of the moneys in the Health Facility Plan Review Fund shall be used to reduce the amount of General Revenue Fund moneys appropriated to the Department for facility plan reviews conducted pursuant to this Section.

(f) (Blank).

(g) The Department shall conduct an on-site inspection of the completed project no later than <u>15 business</u> 30 days after notification from the applicant that the project has been completed and all certifications required by the Department have been received and accepted by the Department. <u>The Department may extend this deadline only if a federally mandated survey time frame takes precedence.</u> The Department shall provide written approval for occupancy to the applicant within 5 working days of the Department's final inspection, provided the applicant has demonstrated substantial compliance as defined by Department rule. Occupancy of new major construction is prohibited until Department approval is

received, unless the Department has not acted within the time frames provided in this subsection (g), in which case the construction shall be deemed approved. Occupancy shall be authorized after any required health inspection by the Department has been conducted.

(h) The Department shall establish, by rule, a procedure to conduct interim on-site review of large or complex construction projects.

(i) The Department shall establish, by rule, an expedited process for emergency repairs or replacement of like equipment.

(j) Nothing in this Section shall be construed to apply to maintenance, upkeep, or renovation that does not affect the structural integrity of the building, does not add beds or services over the number for which the facility is licensed, and provides a reasonable degree of safety for the patients.

(Source: P.A. 91-712, eff. 7-1-00; 92-563, eff. 6-24-02; 92-803, eff. 8-16-02; revised 9-19-02.)

(210 ILCS 85/8.5)

Sec. 8.5. Waiver or alternative compliance ~~of--compliance with--rules--or-standards-for-construction-or-physical-plant.~~ Upon application by a hospital, the Department may grant or renew a ~~the~~ waiver or alternative compliance methodology ~~of the-hospital's-compliance~~ with a ~~construction--or--physical plant~~ rule or standard, including without limitation rules and standards for (i) design and construction, (ii) engineering and maintenance of the physical plant, site, equipment, and systems (heating, cooling, electrical, ventilation, plumbing, water, sewer, and solid waste disposal), ~~and~~ (iii) fire and safety, and (iv) other rules or standards that may present a barrier to the development, adoption, or implementation of an innovation designed to

improve patient care, for a period not to exceed the duration of the current license or, in the case of an application for license renewal, the duration of the renewal period. The waiver may be conditioned upon the hospital taking action prescribed by the Department as a measure equivalent to compliance. In determining whether to grant or renew a waiver, the Department shall consider the duration and basis for any current waiver with respect to the same rule or standard and the validity and effect upon patient health and safety of extending it on the same basis, the effect upon the health and safety of patients, the quality of patient care, the hospital's history of compliance with the rules and standards of this Act, and the hospital's attempts to comply with the particular rule or standard in question. The Department may provide, by rule, for the automatic renewal of waivers concerning construction or physical plant requirements upon the renewal of a license. The Department shall renew waivers relating to construction or physical plant standards issued pursuant to this Section at the time of the indicated reviews, unless it can show why such waivers should not be extended for the following reasons:

(1) the condition of the physical plant has deteriorated or its use substantially changed so that the basis upon which the waiver was issued is materially different; or

(2) the hospital is renovated or substantially remodeled in such a way as to permit compliance with the applicable rules and standards without substantial increase in cost.

A copy of each waiver application and each waiver granted or renewed shall be on file with the Department and available for public inspection.

The Department shall advise hospitals of any applicable federal waivers about which it is aware and for which the

hospital may apply.

In the event that the Department does not grant or renew a waiver of a rule or standard, the Department must notify the hospital in writing detailing the specific reasons for not granting or renewing the waiver and must discuss possible options, if any, the hospital could take to have the waiver approved.

This Section shall apply to both new and existing construction.

(Source: P.A. 92-803, eff. 8-16-02.)

(210 ILCS 85/9.3)

Sec. 9.3. Informal dispute resolution. The Department must offer an opportunity for informal dispute resolution concerning ~~the application of building codes for new and existing construction and related~~ Department rules and standards before the advisory committee under subsection (b) of Section 2310-560 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. Participants in this process must include representatives from the Department, representatives of the hospital, and additional representatives deemed appropriate by both parties with expertise regarding the contested deficiencies and the management of health care facilities. If the Department does not resolve disputed deficiencies after the informal dispute resolution process, the Department must provide a written explanation to the hospital of why the deficiencies have not been removed from the statement of deficiencies.

(Source: P.A. 92-803, eff. 8-16-02.)

(210 ILCS 85/9.4 new)

Sec. 9.4. Findings, conclusions, and citations. The Department must consider any factual information offered by the hospital during the survey, inspection, or investigation,

at daily status briefings, and in the exit briefing required under Section 9.2 before making final findings and conclusions or issuing citations. The Department must document receipt of such information. The Department must provide the hospital with written notice of its findings and conclusions within 10 days of the exit briefing required under Section 9.2. This notice must provide the following information: (i) identification of all deficiencies and areas of noncompliance with applicable law; (ii) identification of the applicable statutes, rules, codes, or standards that were violated; and (iii) the factual basis for each deficiency or violation.

(210 ILCS 85/9.5 new)

Sec. 9.5. Reviewer quality improvement. The Department must implement a reviewer performance improvement program for hospital survey, inspection, and investigation staff. The Department must also, on a quarterly basis, assess whether its surveyors, inspectors, and investigators: (i) apply the same protocols and criteria consistently to substantially similar situations; (ii) reach similar findings and conclusions when reviewing substantially similar situations; (iii) conduct surveys, inspections, or investigations in a professional manner; and (iv) comply with the provisions of this Act. The Department must also implement continuing education programs for its surveyors, inspectors, and investigators pursuant to the findings of the performance improvement program.

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