EXECUTIVE BRANCH
(20 ILCS 3960/) Illinois Health Facilities Planning Act.

(20 ILCS 3960/1) (from Ch. 111 1/2, par. 1151)
(Section scheduled to be repealed on July 1, 2009)
Sec. 1. This Act shall be known and may be cited as the Illinois Health Facilities Planning Act.
(Source: P.A. 78-1156.)

(20 ILCS 3960/2) (from Ch. 111 1/2, par. 1152)
(Section scheduled to be repealed on July 1, 2009)
Sec. 2. The purpose of this Act is to establish a procedure designed to reverse the trends of increasing costs of health care resulting from unnecessary construction or modification of health care facilities. Such procedure shall represent an attempt by the State of Illinois to improve the financial ability of the public to obtain necessary health services, and to establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public.

This Act shall establish a procedure (1) which requires a person establishing, constructing or modifying a health care facility, as herein defined, to have the qualifications, background, character and financial resources to adequately provide a proper service for the community; (2) that promotes through the process of recognized local and areawide health facilities planning, the orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of such facilities; (3) that promotes planning for and development of health care facilities needed for comprehensive health care especially in areas where the health planning process has identified unmet needs; and (4) that carries out these purposes in coordination with the Agency and the comprehensive State health plan developed by that Agency.
(Source: P.A. 80-941.)

(20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)
(Section scheduled to be repealed on July 1, 2009)
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;
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 required to be licensed under the End Stage Renal Disease Facility Act; 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.

This Act shall not apply to the construction of any new facility or the renovation of any existing facility located on any campus facility as defined in Section 5-5.8b of the Illinois Public Aid Code, provided that the campus facility encompasses 30 or more contiguous acres and that the new or renovated facility is intended for use by a licensed residential 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 program 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 does not apply to a dialysis facility that provides only dialysis training, support, and related services to individuals with end stage renal disease who have elected to receive home dialysis. This Act does not apply to a dialysis unit located in a licensed nursing home that offers or provides dialysis-related services to residents with end stage renal disease who have elected to receive home dialysis within the nursing home. The Board, however, may require these dialysis facilities and licensed nursing homes to report statistical information on a quarterly basis to the Board to be used by the Board to conduct analyses on the need for proposed kidney disease treatment centers.

This Act shall not apply to the closure of an entity or a portion of an entity licensed under the Nursing Home Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes, 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 Act.

This Act does not apply to any change of ownership of a healthcare facility that is licensed under the Nursing Home Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes. Changes of ownership of facilities licensed under the Nursing Home Care Act must meet the requirements set forth in Sections 3-101 through 3-119 of the Nursing Home Care 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 (i) the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or (ii) a conversion project undertaken in accordance with Section 30 of the Older Adult Services 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.

"Charity care" means care provided by a health care

facility for which the provider does not expect to receive payment from the patient or a third-party payer.

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

(Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07; 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff. 8-21-08.)

(20 ILCS 3960/3.1)

Sec. 3.1. (Repealed).

(Source: Repealed by P.A. 88-18.)

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

(Section scheduled to be repealed on July 1, 2009)

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

The State Board shall consist of 5 voting members. Each member shall have a reasonable knowledge of health planning, health finance, or health care at the time of his or her appointment. No person shall be appointed or continue to serve as a member of the State Board who is, or whose spouse, parent, 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 is abolished on the effective date of this amendatory Act of the 93rd General Assembly and those members no longer hold office.

The State Board shall be appointed by the Governor, with the advice and consent of the Senate. Not more than 3 of the appointments shall be of the same political party at the time of the appointment. No person shall be appointed as a State Board member if that person has served, after the effective date of Public Act 93-41, 2 3-year terms as a State Board member, except for ex officio non-voting members.

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.

Of those members initially appointed by the Governor under this amendatory Act of the 93rd General Assembly, 2 shall serve for terms expiring July 1, 2005, 2 shall serve for terms expiring July 1, 2006, and 1 shall serve for a term expiring July 1, 2007. 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 93rd General Assembly shall hold office until his or her 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.

The Governor shall designate one of the members to serve as Chairman and 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.

Three members of the State Board shall constitute a quorum. The affirmative vote of 3 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. 95-331, eff. 8-21-07.)

(20 ILCS 3960/4.1)

(Section scheduled to be repealed on July 1, 2009)

Sec. 4.1. Ethics laws.

(a) All State Board meetings are subject to the Open Meetings Act.

(b) The State Board is subject to the State Officials and Employees Ethics Act.

(Source: P.A. 95-331, eff. 8-21-07.)

(20 ILCS 3960/4.2)

(Section scheduled to be repealed on July 1, 2009)

Sec. 4.2. Ex parte communications.

(a) Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis including, but not limited to rule making, the State Board, any State Board member, employee, or a hearing officer shall not engage in ex parte communication in connection with the substance of any pending or impending application for a permit with any person or party or the representative of any party. This subsection (a) applies when the Board, member, employee, or hearing officer knows, or should know upon reasonable inquiry, that the application is pending or impending.

(b) A State Board member or employee may communicate with other members or employees and any State Board member or hearing officer may have the aid and advice of one or more personal assistants.

(c) An ex parte communication received by the State Board, any State Board member, employee, or a hearing officer shall be made a part of the record of the matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.

(d) "Ex parte communication" means a communication between a person who is not a State Board member or employee and a State Board member or employee that reflects on the substance of a pending or impending State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided.

(e) For purposes of this Section, "employee" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis.

(f) The State Board, State Board member, or hearing examiner presiding over the proceeding, in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party or adversely affect the fairness of the proceedings.

(g) Nothing in this Section shall be construed to prevent the State Board or any member of the State Board from consulting with the attorney for the State Board.

(Source: P.A. 93-889, eff. 8-9-04.)

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

(Section scheduled to be repealed on July 1, 2009)

Sec. 5. After effective dates set by the State Board, 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 Executive Secretary of the State Board or any other person or entity the authority to grant permits or exemptions whenever the Executive Secretary or other person or entity would be required to exercise any discretion affecting the decision to grant a permit or exemption. The State Board shall set effective dates applicable to all or to each classification or category of health care facilities and applicable to all or each type of transaction for which a permit is required. Varying effective dates may be set, providing the date or dates so set shall apply uniformly statewide.

Notwithstanding any effective dates established by this Act or by the State Board, no person shall be required to obtain a permit for any purpose under this Act until the State health facilities plan referred to in paragraph (4) of Section

12 of this Act has been approved and adopted by the State Board subsequent to public hearings having been held thereon.

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 10 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. 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.

Persons who otherwise would be required to obtain a permit shall be exempt from such requirement if the State Board finds that with respect to establishing a new facility or construction of new buildings or additions or modifications to an existing facility, final plans and specifications for such work have prior to October 1, 1974, been submitted to and approved by the Department of Public Health in accordance with the requirements of applicable laws. Such exemptions shall be null and void after December 31, 1979 unless binding construction contracts were signed prior to December 1, 1979 and unless construction has commenced prior to December 31, 1979. Such exemptions shall be valid until such time as the project has been completed provided that the project proceeds to completion with due diligence.

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. 91-782, eff. 6-9-00.)

(20 ILCS 3960/5.1) (from Ch. 111 1/2, par. 1155.1)
(Section scheduled to be repealed on July 1, 2009)
Sec. 5.1. No person shall construct, modify, or establish a health care facility alternative health care model without first obtaining a permit from the State Board except as authorized by the provisions of the Alternative Health Care Delivery Act.
(Source: P.A. 87-1188; 88-490.)

(20 ILCS 3960/5.1a)
(Section scheduled to be repealed on July 1, 2009)
Sec. 5.1a. No person shall construct, modify, or establish a freestanding emergency center in Illinois, or acquire major medical equipment or make capital expenditures in relation to such a facility in excess of the capital expenditure minimum, as defined by this Act, without first obtaining a permit from the State Board in accordance with criteria, standards, and procedures adopted by the State Board for freestanding emergency centers that ensure the availability of and community access to essential emergency medical services.
(Source: P.A. 95-584, eff. 8-31-07.)

(20 ILCS 3960/5.2)
(Section scheduled to be repealed on July 1, 2009)
Sec. 5.2. After the effective date of this amendatory Act of the 91st General Assembly, no person shall establish, construct, or modify 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 without first obtaining a permit from the State Board.
(Source: P.A. 91-782, eff. 6-9-00.)

(20 ILCS 3960/5.3)
(Section scheduled to be repealed on July 1, 2009)
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. 93-41, eff. 6-27-03.)

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

(Section scheduled to be repealed on July 1, 2009)

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.

(c-5) Any written review or findings of the Agency 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 in support of or in opposition to the review or findings of the Agency or reviewing organization. A written response must be submitted at least 2 business days before the meeting of the State Board. At the meeting, the State Board may, in its discretion, permit the submission of 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.)

(20 ILCS 3960/6.01) (from Ch. 111 1/2, par. 1156.01)

Sec. 6.01. (Repealed).

(Source: P.A. 89-507, eff. 7-1-97. Repealed by P.A. 89-516, eff. 7-18-96.)

(20 ILCS 3960/6.1)
Sec. 6.1. (Repealed).
(Source: Repealed by P.A. 88-18.)

(20 ILCS 3960/7) (from Ch. 111 1/2, par. 1157)
(Section scheduled to be repealed on July 1, 2009)
Sec. 7. The Director or the Chairman of the State Board may request the cooperation of county and multiple-county health departments, municipal boards of health, and other governmental and nongovernmental agencies in obtaining information and in conducting investigations relating to applications for permits.
(Source: P.A. 89-276, eff. 8-10-95.)

(20 ILCS 3960/8) (from Ch. 111 1/2, par. 1158)
(Section scheduled to be repealed on July 1, 2009)
Sec. 8. The Agency shall assist communities and regions throughout the State to establish areawide health planning organizations and, in particular, shall assist such organizations to develop health care facilities planning which meets the criteria for recognition thereof. Areawide health planning organizations may be recognized to do health facilities planning by providing this component of health planning within the organization or by contracting with a special-purpose health planning organization that meets the criteria for health facilities planning.

Recognition of these organizations with regard to health facilities planning, including establishment of the criteria for such recognition, shall be the responsibility of the State Board, as provided elsewhere in this Act.

The Agency is authorized to make grants-in-aid or to furnish direct services to organizations in the development of health facilities planning capability, as a part of other financial and service assistance which the Agency is empowered and required to provide in support of health planning organizations.

Upon receipt of an application for a permit to establish, construct or modify a health care facility, the Agency shall notify the applicant in writing within 10 working days either that the application is complete or the reasons why the application is not complete. If the application is complete, the Agency shall notify affected persons of the beginning of a review and the review time cycle for the purposes of this Act shall begin on the date this notification is mailed.

Upon notifying affected persons of the beginning of a review of an application for a permit, a complete copy of such application shall be transmitted to the areawide health planning organization serving the area or community where the health care facility or major medical equipment is proposed to be acquired, established, constructed or modified. The Agency shall also transmit a complete copy of such application to any reasonably contiguous areawide health planning organization. The Agency shall afford a reasonable time as established by the State Board, but not to exceed 120 days in length, for the

areawide planning organizations' review of the application. After reviewing the application, each recognized areawide planning organization shall certify its findings to the State Board as to whether or not the application is approved or disapproved in accordance with standards, criteria or plans of need adopted and approved by the recognized areawide health planning organization pursuant to its recognition by the State Board for health care facilities planning. The 120-day period shall begin on the day the application is found to be substantially complete, as that term is defined by the State Board. During such 120-day period, the applicant may request an extension. An applicant may modify the application at any time prior to a final administrative decision on the application.

Upon its receipt of an application, the areawide health planning organization or the Agency, as the case may be, may submit a copy of such application to the federally-recognized professional standards review organization, if any, and appropriate local health planning organization, if any, existing in the area where the proposed project is to occur. Such organizations may review the application for a permit and submit, within 30 days from the receipt of the application, a finding to the agency or to the areawide health planning organization, as the case may be. A review and finding by a federally-recognized professional standards review organization must be relevant to the activities for which such organization is recognized, and shall be considered by the Agency or the areawide health planning organization, as the case may be, in its review of the application.

The State Board shall prescribe and provide the forms upon which the review and finding of the organization shall be made. The recognized areawide health planning organizations shall submit their review and finding to the Agency for its finding on the application and transmittal to the State Board for its consideration of denial or approval.

If there is no areawide health planning organization in the area where the proposed establishment, construction or modification of a health care facility is to occur, then the Agency shall be afforded a reasonable time, but not to exceed 120 days, for its review and finding thereon. The Agency shall submit its review and finding to the State Board for its approval or denial of the permit.

When an application for a permit is initially reviewed by a recognized areawide health planning organization or the Agency, as herein provided, the organization or the Agency, as the case may be, shall afford an opportunity for a public hearing within a reasonable time after receipt of the complete application, not to exceed 90 days. Notice of such hearing shall be made promptly by certified mail to the applicant and, within 10 days of the hearing, by publication in a newspaper of general circulation in the area or community to be affected. Such hearing shall be conducted in the area or community where the proposed project is to occur, 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 such hearing shall be given reasonable opportunity to present their views or arguments in writing or

orally, and a record of all such testimony shall accompany any recommendation of the Agency or the recognized areawide health planning organization for the issuance, denial, revocation or renewal of a permit to the State Board. The State Board shall promulgate reasonable rules and regulations governing the procedure and conduct of such hearings.

(Source: P.A. 88-18.)

(20 ILCS 3960/8.5)

(Section scheduled to be repealed on July 1, 2009)

Sec. 8.5. Certificate of exemption for change of ownership of a health care facility; public notice and public hearing.

(a) Upon a finding by the Department of Public Health that an application for a change of ownership is complete, the Department of Public Health shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on the Illinois Health Facilities Planning Board's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. The Department of Public Health shall not find that an application for change of ownership of a hospital is complete without a signed certification that for a period of 2 years after the change of ownership transaction is effective, the hospital will not adopt a charity care policy that is more restrictive than the policy in effect during the year prior to the transaction.

For the purposes of this subsection, "newspaper of limited circulation" means a newspaper intended to serve a particular or defined population of a specific geographic area within a Metropolitan Statistical Area such as a municipality, town, village, township, or community area, but does not include publications of professional and trade associations.

(b) If a public hearing is requested, it shall be held at least 15 days but no more than 30 days after the date of publication of the legal notice in the community in which the facility is located. The hearing shall be held in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. The applicant shall provide a summary of the proposed change of ownership for distribution at the public hearing.

(Source: P.A. 93-935, eff. 1-1-05.)

(20 ILCS 3960/9) (from Ch. 111 1/2, par. 1159)

(Section scheduled to be repealed on July 1, 2009)

Sec. 9. An application for a certificate of recognition for an areawide health planning organization for health facilities planning shall be made to the State Board upon forms provided by it and shall contain evidence that standards, criteria and plans of need have been adopted and approved by the organization for health care facilities planning for the area which the applicant intends to serve and

such other information as may reasonably be required. All such applications for a certificate of recognition shall be submitted to the State Board and evaluated by the Agency. If the Agency finds that the applicant for a certificate of recognition for health facilities planning meets the criteria established under this Act, it shall submit its recommendation of approval to the State Board. A certificate of recognition shall be approved by the State Board and shall be valid for such period as the State Board, upon its findings determines that the recognized areawide health planning organization continues to comply with the criteria for recognition. The State Board shall annually review the certificate of recognition and afford an opportunity for public comment in order to determine that the recognized areawide health planning organization continues to comply with the criteria for recognition. A certificate of recognition may be revoked by the State Board, following opportunity for appeal and hearing as provided in this Act. Upon loss of recognition, funds awarded to the areawide health planning organization by the Agency pursuant to this Act shall be terminated.

When an application for a certificate of recognition of an areawide health planning organization for health facilities planning is made to the State Board, the Agency shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days. Notice of such hearing shall be made promptly to the applicant by certified mail and by publication in a newspaper of general circulation in the area where the applicant intends to conduct health facilities planning. Such hearings shall be conducted by the Agency in the area affected, and shall be for the purpose of allowing the applicant and all interested parties to present public testimony concerning the approval, denial or revocation of a certificate of recognition. All interested parties attending such hearing shall be given reasonable opportunity to present their views orally or in writing, and a record of such testimony shall be transmitted to the State Board by the Agency. The State Board shall consider all testimony submitted by the Agency pursuant to the public hearing in conjunction with the recommendation of the Agency for the approval, denial or revocation of the certificate of recognition.

(Source: P.A. 81-149.)

(20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)
(Section scheduled to be repealed on July 1, 2009)

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. 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 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. 93-41, eff. 6-27-03.)

(20 ILCS 3960/11) (from Ch. 111 1/2, par. 1161)

(Section scheduled to be repealed on July 1, 2009)

Sec. 11. Any person who is adversely affected by a final decision of the State Board may have such decision judicially reviewed. The provisions of the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto shall apply to and govern all proceedings for the judicial review of final administrative decisions of the State Board. The term "administrative decisions" is as defined in Section 3-101 of the Code of Civil Procedure.

(Source: P.A. 82-1057.)

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

(Section scheduled to be repealed on July 1, 2009)

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. Inventories pursuant to this Section of skilled or intermediate care facilities licensed under the Nursing Home Care 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 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. 93-41, eff. 6-27-03; 94-983, eff. 6-30-06.)

(20 ILCS 3960/12.1) (from Ch. 111 1/2, par. 1162.1)

(Section scheduled to be repealed on July 1, 2009)

Sec. 12.1. The State Board shall, by rule, define terms and set those conditions necessary to implement the Health Care Worker Self-Referral Act. The rules shall be promulgated and adopted exclusively and solely by the State Board.

(Source: P.A. 90-14, eff. 7-1-97.)

(20 ILCS 3960/12.2)

(Section scheduled to be repealed on July 1, 2009)

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. 93-41, eff. 6-27-03.)

(20 ILCS 3960/12.3)

(Section scheduled to be repealed on July 1, 2009)

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.

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

(20 ILCS 3960/12.4)

(Section scheduled to be repealed on July 1, 2009)

Sec. 12.4. Hospital reduction in health care services; notice. If a hospital reduces any of the Categories of Service as outlined in Title 77, Chapter II, Part 1110 in the Illinois Administrative Code, or any other service as defined by rule by the State Board, by 50% or more according to rules adopted by the State Board, then within 30 days after reducing the service, the hospital must give written notice of the reduction in service to the State Board, the Department of Public Health, and the State Senator and 2 State Representatives serving the legislative district in which the hospital is located. The State Board shall adopt rules to implement this Section, including rules that specify (i) how each health care service is defined, if not already defined in the State Board's rules, and (ii) what constitutes a reduction in service of 50% or more.

(Source: P.A. 93-940, eff. 1-1-05.)

(20 ILCS 3960/12.5)

(Section scheduled to be repealed on July 1, 2009)

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

(Section scheduled to be repealed on July 1, 2009)

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.

Among the reports to be required by the State Board are facility questionnaires for health care facilities licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, the Nursing Home Care Act, or the End Stage Renal Disease Facility Act. These questionnaires shall be conducted on an annual basis and compiled by the Agency. For health care facilities licensed under the Nursing Home Care Act, these reports shall include, but not be limited to, the identification of specialty services provided by the facility to patients, residents, and the community at large. For health care facilities that contain long term care beds, the reports shall also include the number of staffed long term care beds, physical capacity for long term care beds at the facility, and long term care beds available for immediate occupancy. For purposes of this paragraph, "long term care beds" means beds (i) licensed under the Nursing Home Care Act or (ii) licensed under the Hospital Licensing Act and certified as skilled nursing or nursing facility beds under Medicaid or Medicare.

(Source: P.A. 93-41, eff. 6-27-03; 94-983, eff. 6-30-06.)

(20 ILCS 3960/13.1) (from Ch. 111 1/2, par. 1163.1)
(Section scheduled to be repealed on July 1, 2009)

Sec. 13.1. Any person establishing, constructing, or

modifying a health care facility or portion thereof without obtaining a required permit, or in violation of the terms of the required permit, shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility until the required permit is obtained.
(Source: P.A. 88-18.)

(20 ILCS 3960/14) (from Ch. 111 1/2, par. 1164)
(Section scheduled to be repealed on July 1, 2009)
Sec. 14. Any person acquiring major medical equipment or establishing, constructing or modifying a health care facility without a permit issued under this Act or in violation of the terms of such a permit is guilty of a business offense and may be fined up to $25,000. The State's Attorneys of the several counties or the Attorney General shall represent the People of the State of Illinois in proceedings under this Section. The prosecution of an offense under this Section shall not prohibit the imposition of any other sanction provided under this Act.
(Source: P.A. 88-18.)

(20 ILCS 3960/14.1)
(Section scheduled to be repealed on July 1, 2009)
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 Nursing Home 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 Nursing Home Care Act.
(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.

(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, 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 must comply with Section 3-423 of that 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. 95-543, eff. 8-28-07.)

(20 ILCS 3960/15) (from Ch. 111 1/2, par. 1165)

(Section scheduled to be repealed on July 1, 2009)

Sec. 15. Notwithstanding the existence or pursuit of any other remedy, the State Board or the Agency may, in the manner provided by law, upon the advice of the Attorney General who shall represent the State Board or the Agency in the proceedings, maintain an action in the name of the State for injunction or other process against any person or governmental unit to restrain or prevent the acquisition of major medical equipment, or the establishment, construction or modification of a health care facility without the required permit, or to

restrain or prevent the occupancy or utilization of the equipment acquired or facility which was constructed or modified without the required permit.
(Source: P.A. 89-276, eff. 8-10-95.)

(20 ILCS 3960/15.1) (from Ch. 111 1/2, par. 1165.1)
(Section scheduled to be repealed on July 1, 2009)
Sec. 15.1. No individual who, as a member of the State Board or of an areawide health planning organization board, or as an employee of the State or of an areawide health planning organization, shall, by reason of his performance of any duty, function, or activity required of, or authorized to be undertaken by this Act, be liable for the payment of damages under any law of the State, if he has acted within the scope of such duty, function, or activity, has exercised due care, and has acted, with respect to that performance, without malice toward any person affected by it.
(Source: P.A. 80-941.)

(20 ILCS 3960/15.5)
(Section scheduled to be repealed on July 1, 2009)
Sec. 15.5. Task Force on Health Planning Reform.
(a) The Task Force on Health Planning Reform is created.
(b) The Task Force shall consist of 19 voting members, as follows: 6 persons, who are not currently employed by a State agency, appointed by the Director of Public Health, 3 of whom shall be persons with knowledge and experience in the delivery of health care services, including at least one person representing organized health service workers, 2 of whom shall be persons with professional experience in the administration or management of health care facilities, and one of whom shall be a person with experience in health planning; 2 members of the Illinois Senate appointed by the President of the Senate, one of whom shall be a co-chair to the Task Force; 2 members of the Illinois Senate appointed by the Senate Minority Leader; 2 members of the Illinois House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be a co-chair to the Task Force; 2 members of the Illinois House of Representatives appointed by the House Minority Leader; the Attorney General, or his or her designee; and 4 members of the general public, representing health care consumers, appointed by the Attorney General of Illinois.
The following persons, or their designees, shall serve, ex officio, as nonvoting members of the Task Force: the Director of Public Health, the Secretary of the Illinois Health Facilities Planning Board, the Director of Healthcare and Family Services, the Secretary of Human Services, and the Director of the Governor's Office of Management and Budget.
Members shall serve without compensation, but may be reimbursed for their expenses in relation to duties on the Task Force.
A vote of 12 members appointed to the Task Force is required with respect to the adoption of recommendations to the Governor and General Assembly and the final report required by this Section.
(c) The Task Force shall gather information and make

recommendations relating to at least the following topics in relation to the Illinois Health Facilities Planning

Act:

(1) The impact of health planning on the provision of essential and accessible health care services; prevention of unnecessary duplication of facilities and services; improvement in the efficiency of the health care system; maintenance of an environment in the health care system that supports quality care; the most economic use of available resources; and the effect of repealing this Act.

(2) Reform of the Illinois Health Facilities Planning Board to enable it to undertake a more active role in health planning to provide guidance in the development of services to meet the health care needs of Illinois, including identifying and recommending initiatives to meet special needs.

(3) Reforms to ensure that health planning under the Illinois Health Facilities Planning Act is coordinated with other health planning laws and activities of the State.

(4) Reforms that will enable the Illinois Health Facilities Planning Board to focus most of its project review efforts on "Certificate-of-Need" applications involving new facilities, discontinuation of services, major expansions, and volume-sensitive services, and to expedite review of other projects to the maximum extent possible.

(5) Reforms that will enable the Illinois Health Facilities Planning Board to determine how criteria, standards, and procedures for evaluating project applications involving specialty providers, ambulatory surgical facilities, and other alternative health care models should be amended to give special attention to the impact of those projects on traditional community hospitals to assure the availability and access to essential quality medical care in those communities.

(6) Implementation of policies and procedures necessary for the Illinois Health Facilities Planning Board to give special consideration to the impact of the projects it reviews on access to "safety net" services.

(7) Changes in policies and procedures to make the Illinois health facilities planning process predictable, transparent, and as efficient as possible; requiring the State Agency (the Illinois Department of Public Health) and the Illinois Health Facilities Planning Board to provide timely and appropriate explanations of its decisions and establish more effective procedures to enable public review and comment on facts set forth in State Agency staff analyses of project applications prior to the issuance of final decisions on each project.

(8) Reforms to ensure that patient access to new and modernized services will not be delayed during a transition period under any proposed system reform; and that the transition should minimize disruption of the process for current applicants.

(9) Identification of the resources necessary to support the work of the Agency and the Board.

(d) The Task Force shall recommend reforms regarding the following:

(1) The size and membership of current Illinois

Health Facilities Planning Board. Review and make recommendations on the reorganization of the structure and function of the Illinois Health Facilities Planning Board and the State Agency responsible for health planning (the Illinois Department of Public Health), giving consideration to various options for reassigning the primary responsibility for the review, approval, and denial of project applications between the Board and the State Agency, so that the "Certificate-of-Need" process is administered in the most effective, efficient, and consistent manner possible in accordance with the objectives referenced in subsection (c) of this Section.

(2) Changes in policies and procedures that will charge the Illinois Health Facilities Planning Board with developing a long-range health facilities plan (10 years) to be updated at least every 2 years, so that it is a rolling 10-year plan based upon data no older than 2 years. The plan should incorporate an inventory of the State's health facilities infrastructure including both facilities and services regulated under this Act, as well as facilities and services that are not currently regulated under this Act, as determined by the Board. The planning criteria and standards should be adjusted to take into consideration services that are regulated under the Act, but are also offered by non-regulated providers. The Illinois Department of Public Health bed inventory should be updated each year using the most recent utilization data for both hospitals and long-term care facilities including 2003, 2004, 2005 and subsequent-year inpatient discharges and days. This revised bed supply should be used as the bed supply input for all Planning Area bed-need calculations. Ten-year population projection data should be incorporated into the plan. Plan updates may include redrawing planning area boundaries to reflect population changes. The Task Force shall consider whether the inventory formula should use migration factors for the medical/surgical, pediatrics, obstetrics, and other categories of service, and if so, what those migration factors should be. The Board should hold public hearings on the plan and its updates. There should be a mechanism for the public to request that the plan be updated more frequently to address emerging population and demographic trends. In developing the plan, the Board should consider health plans and other related publications that have been developed both in Illinois and nationally. In developing the plan, the need to ensure access to care, especially for "safety net" services, including rural and medically underserved communities, should be included.

(3) Changes in regulations that establish separate criteria, standards, and procedures when necessary to adjust for structural, functional, and operational differences between long-term care facilities and acute care facilities and that allow routine changes of ownership, facility sales, and closure requests to be processed on a timely basis. Consider rules to allow flexibility for facilities to modernize, expand, or convert to alternative uses that are in accord with health

planning standards.

(4) Changes in policies and procedures so that the Illinois Health Facilities Planning Board updates the standards and criteria on a regular basis and proposes new standards to keep pace with the evolving health care delivery system. Proton Therapy and Treatment is an example of a new, cutting-edge procedure that may require the Board to immediately develop criteria, standards, and procedures for that type of facility. Temporary advisory committees may be appointed to assist in the development of revisions to the Board's standards and criteria, including experts with professional competence in the subject matter of the proposed standards or criteria that are to be developed.

(5) Changes in policies and procedures to expedite project approval, particularly for less complex projects, including standards for determining whether a project is in "substantial compliance" with the Board's review standards. The review standards must include a requirement for applicants to include a "Safety Net" Impact Statement. This Statement shall describe the project's impact on safety net services in the community. The State Agency Report shall include an assessment of the Statement.

(6) Changes to enforcement processes and compliance standards to ensure they are fair and consistent with the severity of the violation.

(7) Revisions in policies and procedures to prevent conflicts of interest by members of the Illinois Health Facilities Planning Board and State Agency staff, including increasing the penalties for violations.

(8) Other changes determined necessary to improve the administration of this Act.

(e) The State Agency, at the direction of the Task Force, may hire any necessary staff or consultants, enter into contracts, and make any expenditures necessary for carrying out the duties of the Task Force, all out of moneys appropriated for that purpose. Staff support services shall be provided to the Task Force by the State Agency from such appropriations.

(f) The Task Force may establish any advisory committee to ensure maximum public participation in the Task Force's planning, organization, and implementation review process. If established, advisory committees shall (i) advise and assist the Task Force in its duties and (ii) help the Task Force to identify issues of public concern.

(g) The Task Force may submit findings and recommendations to the Governor and the General Assembly as may be necessary at any time and shall submit a final report by November 3, 2008, including any necessary implementing legislation, and recommendations for changes to policies, rules, or procedures that are not incorporated in the implementing legislation.

(h) The Task Force is abolished on December 31, 2008.

(Source: P.A. 95-5, eff. 5-31-07; 95-771, eff. 7-31-08.)

(20 ILCS 3960/16) (from Ch. 111 1/2, par. 1166)

(Section scheduled to be repealed on July 1, 2009)

Sec. 16. If any provision of this Act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application

of this Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are declared to be severable.
(Source: P.A. 78-1156.)

(20 ILCS 3960/17) (from Ch. 111 1/2, par. 1167)
(Section scheduled to be repealed on July 1, 2009)
Sec. 17. It is hereby specifically declared that the powers and functions exercised and performed by the State pursuant to this Act are exclusive to the State of Illinois and that these powers and functions shall not be exercised, either independently or concurrently, by any home rule unit.
(Source: P.A. 78-1156.)

(20 ILCS 3960/18) (from Ch. 111 1/2, par. 1168)
(Section scheduled to be repealed on July 1, 2009)
Sec. 18. The Illinois Administrative Procedure Act, as now or hereafter amended, is hereby expressly adopted and incorporated herein and shall apply to the State Board and the Agency as if all of the provisions of such Act were included in this Act; except that in case of a conflict between the Administrative Procedure Act and this Act the provisions of this Act shall control. This Section applies to the Agency and the State Board 6 months after the effective date of this amendatory Act of 1977.
(Source: P.A. 80-818.)

(20 ILCS 3960/19)
(Section scheduled to be repealed on July 1, 2009)
Sec. 19. Rules. The rules promulgated by the Agency under this Act that are in effect on the effective date of this amendatory Act of 1995, as contained in Title 77 of the Illinois Administrative Code, Chapter II, Parts 1100 through 1260, inclusive, shall be the rules of the State Board. Any proposed rule in the process of promulgation by the Agency on the effective date of this amendatory Act of 1995 shall be considered to be a rule proposed by the State Board and shall retain the same status in the promulgation process.
(Source: P.A. 89-276, eff. 8-10-95.)

(20 ILCS 3960/19.5)
(Section scheduled to be repealed on July 1, 2009 and as provided internally)
Sec. 19.5. Audit. Upon the effective date of this amendatory Act of the 91st General Assembly, the Auditor General must commence an audit of the State Board to determine:

(1) whether the State Board can demonstrate that the certificate of need process is successful in controlling health care costs, allowing public access to necessary health services, and guaranteeing the availability of quality health care to the general public;

(2) whether the State Board is following its adopted rules and procedures;

(3) whether the State Board is consistent in awarding and denying certificates of need; and

(4) whether the State Board's annual reports reflect a cost savings to the State.

The Auditor General must report on the results of the audit to the General Assembly.

This Section is repealed when the Auditor General files his or her report with the General Assembly.

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

(20 ILCS 3960/19.6)

(Section scheduled to be repealed on July 1, 2009)

Sec. 19.6. Repeal. This Act is repealed on July 1, 2009.

(Source: P.A. 94-983, eff. 6-30-06; 95-1, eff. 3-30-07; 95-5, eff. 5-31-07; 95-771, eff. 7-31-08.)