Draft Language	Rationale or Purpose	Impact
Sec. 2. Purpose. The purpose of this Act is to establish a procedure designed to: 1. promote the distribution of health care and improve the healthcare delivery system in Illinois, based upon population need; ~~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~~ 2. improve the financial ability of the public to obtain necessary health services;~~,~~ ~~and~~ 3. ~~to~~ establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public; 4. maintain and improve the provision of essential health care services and increase the accessibility of those services to the medically underserved and indigent; 5. assure that the reduction and closure of health care services and/or facilities is performed in an orderly and timely manner, and that these actions are deemed to be in the best interests of the public; and 6. limit the financial burden to patients caused by unnecessary health care construction and modification by assessing the financial viability of proposed projects and the corresponding impact on patient financial responsibilities to the facility. 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)	• To clean up and clarify language • Explicitly redirect the purpose of the Act from cost containment with provision for access and quality provisions to cost containment AND quality, access, preservation of safety net services. • Make explicit the role of the Board in maintenance and improvement of essential services for the medically indigent. • The original Act was promulgated in an era of a large excess of health facility resources. In this era, scarcity of facilities and resources is a major concern in many parts of the State. Make explicit the role of the Board in assuring the orderly closure of health care facilities and services.	• Update and make more contemporary and explicit the current purpose and objectives of the programs of the Act. Allowing more accountability in current terms. • Explicit citation of the Board's role in the orderly closure of facilities and services may enhance compliance with this problem and raise consciousness as to the scarcity of facilities and resources in many parts of the State.

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that carries out these purposes in coordination with the Agency and the comprehensive State health plan developed by that Agency.		
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;		
7. An institution, place, building, or room used for provision of cardiac catheterization procedures, 8. An institution, place, building, or room used for provision of major medical equipment or technologies used for the direct clinical treatiment of patients, and whose project cost is in excess of the capital expenditure minimum.	• To include limited specific critical service areas currently NOT regulated by this Act OR ANY licensing Act and enormously expensive medical equipment and services not currently defined elsewhere.	• Will close two loopholes regarding unregulated complex cardiac cath, and replace antiquated language regarding major medical equipment exemptions that was written when the capital threshold was $100,000 and the Board regulated CT scanners, MRIs and

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		lithotriptors. Regulations that have long since been repealed.
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		

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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.~~	• Remove the recent exclusion of private nursing home change of ownership and closure from the Act, as being contrary to the fundamental purpose of the protection of safety net services.	• Be consistent with a primary objective and safeguard of the role of the orderly closure of facilities and services • Reinstates the oversight of entry into the Illinois marketplace that occurs during purchase of an existing facility. Will protect the public from problematic operators getting into the LTC business in the State thru purchase rather than establishing new facilities.
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		

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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 or reduction of a category of service or health care facility, 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 or the initiation of a category of service. "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,	• Clarify in this definition language later in the Act that includes reduction of services.	• Will improve understanding of the Board's role • Will improve understanding of the Board's role

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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,	• Clarify and make explicit language elsewhere in the Act and 30 years of practice.	

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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. "Clinical Service Area" means any service that is a functional requirement to meet minimum codes and standards under a facility's licensure, and any additional service area directly related to the diagnosis, treatment or rehabilitation of patients. "Non-clinical service area" means an area of a facility that is not required for the service area for the licensure of that facility by IDPH. For hospitals, 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	• Clarify the existing definition of "Non -clinical service area" especially as it applies to facilities other than hospitals • Clarify the existing definition of "Non -clinical service area" especially as it applies to facilities other than hospitals	• Will clarify currently ambiguous and potential problematic definitions. • Will clarify currently ambiguous definitions.

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"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.		

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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.)		
Sec. 4. The State Board shall consist of 9 ~~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	• Increase the size of the Board for functional effectiveness and provide a minimal removal of restrictions to be eligible to serve as a Board member.	• Will increase the functionality of the Board as well as increase the pool of potential members..

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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.		
Sec. 4. 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. Members shall also receive a stipend of $200/day for each day that member participated in scheduled Board activities in their official capacity. If the member is compensated by an employer while participating in their official capacity as a Board member, the stipend shall be reduced by the amount of that compensation.	• Reinstate a daily stipend for Board members who are required to commit extensive time to the Board's business. Adjust that stipend if any compensation is provided by the member's employer.	• Will provide a minimal compensation for major time commitment necessary to serve on the Board; help retainage of members and enhance the pool of potential candidates.
(20 ILCS 3960/5) (from Ch. 111 1/2, par. 1155) (Section scheduled to be repealed on August 31, 2008) 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		

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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 $31,000,000 ~~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.	• Update the definition of "Major construction projects"	• "Loosens" the definition for the industries without adverse impact on the programs.
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	• Eliminate this provision as being unnecessary for any routine acquisition due to the minimum	• Will maintain the ability of anyone (including

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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 project that consists entirely of a non-clinical service area of a health care facility. (Source: P.A. 91-782, eff. 6-9-00.)	capital thresholds (currently $7.5 million for equipment), and was established when the capital threshold was $100,000 and the Board regulated CT scanners, MRIs and lithotriptors – regulations that have long since been repealed. This provision significantly limited the Board's purview of the NIU proton beam therapy center, while at the same time mandated that Central DuPage Hospital go through detailed review for the same service. • Clarify the intent of this language to be consistant with practice, as applicable to hospital and non-hospital facilities.	physicians) being able to acquire, without regulation, most common major medical equipment including MRIs, PET scanners, radiation therapy, etc. but will be superceded by other language has the effect of significantly limiting oversight on very major equipment acquisitions such as a $150 million proton beam therapy unit. Will "level the playing field" among facilities and non-facilities for these types of major impact services. • Eliminates ambiguous language.
Sec. 6 (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.~~	• Remove that portion of a recent amendment to the Act that has had the effect of delaying projects and allowing project opponents to "game" the process and delay Board consideration. Maintain the provisions to post findings.	• Will reinstate the Board's rules process controlling the timeframe of considerations without undo interference. This will be consistant with calls to "streamline the process."

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Sec. 8. 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 15 ~~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.	• IF efforts to "streamline" review procedures are successful, the remaining applications for full review will be increasingly complex. The current maximum of 10 days is not adequate for a quality assessment of an application for a new hospital or complex projects of +$100 million.	• Will provide a more appropriate timeframe for assessment of large, complex applications, that should minimize extended review periods and multiple Board discussions of a given application.
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	•	

Draft Language	Rationale or Purpose	Impact
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 90 ~~45~~ days of receiving the written report of the hearing. A copy of such determination shall be sent by certified mail or served personally upon the party. A full and complete record shall be kept of all proceedings, including the notice of hearing, complaint, and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the State Board or hearing officer. All testimony shall be reported but need not be transcribed unless the decision is appealed in accordance with the Administrative Review Law, as now or hereafter amended. A copy or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies. The State Board or hearing officer shall upon its own or his motion, or on the written request of any party to the proceeding who has, in the State Board's or hearing officer's opinion, demonstrated the relevancy of such request to the outcome of the proceedings, issue subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records, or memoranda. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit court of this State. When the witness is subpoenaed at the instance of the State Board, or its hearing officer, such fees shall be paid in the same manner as other expenses of the Agency, and when	• According to Section 4 of this Act the Board shall meet at least once each quarter, or as often as the CHAIRMAN of the Board deems necessary, or upon the request of a majority of members. Therefore, this change in the time-period for the Board to make its final decision from 45 to 90 days in more in line with the statutory mandate of the meeting times.	

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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.		
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.)	• The Health Care Worker Self-Referral Act is not effective and redundant to Federal legislation. Consideration should be given to its repeal or enhancement.	• Submitted for consideration
Sec. 12.5. Update existing bed inventory and associated bed need projections. The State Board shall maintain updated Inventories of Bed and Service Need. These shall be based upon objective historical and projected data. The rationale and methodology for each projection shall be provided by rule. The following factors shall be specified for each service: population projection time horizons, migration factors, historic utilization patterns, planning areas, population cohorts, and consideration for areas of rapid population growth. ~~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~~	• Detailed planning calculations based upon neutral, objective and universal considerations should remain a primary role of the Board. This recent amendment dictated technical considerations that benefited some segments of the State at the expense of others. .	• Reinstate rationality and objectivity into the process and thereby enhancing public trust.

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~~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.~~		
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.~~	• Remove the recent change in the Act that precludes the denial of a permit based upon review of an applicant's	• Be consistent with a primary objective and safeguard the access of the public to quality health care

Draft Language	Rationale or Purpose	Impact
	background as an operator, including repeated citations threatening the life and safety of the patients under its care.	services. • Will provide incentive to Nursing Home operators NOT to commit actions that threaten the "life and safety" of its patients.
(6) Once the Board approves a permit or exemption the failure to complete post permit or post exemption requirements, such as, but not limited to obligation, annual reports, interim reports, final cost reports,or the completion date. (b) Persons shall be subject to fines as follows: (1) A permit or exemption holder who fails to comply with the requirements of maintaining a valid permit or exemption, including but not limited to obligating and completing the projects by the required dates, shall be fined an amount not to exceed 1% of the approved permit or exemption 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 or exemption 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	• The majority of Board compliance matters deal with the permit or exemption holder not completing post permit or exemption requirements. Having a this section in the Act clearly communicates that these are important Board matters. • Includes both primary Board actions defined by the Act, issuance of permits and exemptions to permit. • Includes both primary Board actions defined by the Act, issuance of permits and exemptions to permit	• Clarifies current language. • Clarifies current language.

Draft Language	Rationale or Purpose	Impact
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, or who fails to provide the State Board or Agency information required by this Act, 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.)	• Tied to recommendations above that the exclusion of private nursing homes oversight from closure and change of ownership, be removed. • This provision that Nursing Homes provide written notice of intent to close has been ineffective and unenforceable. • There are some specific reporting requirements specified in the Act the intention of which is to notification of significant changes in the health care system. These include, a long term care facility's written notice of closure and the "50% reduction in hospital services" The sanction authority is currently stated, requires awareness of the event in order	• Facilities licensed under the Nursing Care Act number approximately 1200 statewide, For the protection of the health safety, and welfare of the citizens of Illinois, these facilities should be under the Board's jurisdiction. • There would be significantly better compliance with the reporting requirements in the Act..

Draft Language	Rationale or Purpose	Impact
	to make a "formal written request." This language in ineffective in securing the reports indicated above.	
~~Sec. 15.5. Task Force on Health Planning Reform.~~ ~~(a) The Task Force on Health Planning Reform is created.~~	Repeal entire section regarding Task Force which will have expired.	
~~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.)~~	• The Auditor General has completed this assignment and there are currently no outstanding issues.	
~~(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.)~~	• Delete the automatic repeal of this Act as being detrimental to the appropriate staffing and execution of the programs under the Act. Minimally, amend to longer term sunset of 5 years.	

Health Facilities Planning Act 20 ILCS 3960
ADDITIONAL CONSIDERATIONS

The Task Force on Health Planning Reform (TFHPR) has discussed a number of changes to the Act from broad conceptual changes to detailed procedural issues. Below are some of the considerations and comment:

Discussion Point	Comments
1. Mandate a Statewide Health Planning effort • Discussions have been around an effort "independent" of the Board and perhaps of the DPH. • Whether or not actual planning is required or a body to consolidate multiple State agency planning activities. • Note that the Health Facilities Planning Act was preceded by the Comprehensive State Health Planning Act in the 1970s	• There is concurrence that additional effort towards a "Statewide Health Plan" is a good goal, there are concerns regarding definition and implementation: ▪ Resource availability for meaningful planning activities; ▪ Independent and objective oversight of those activities.
2. Requiring Board members' presence at all public hearings • By rule, the DPH currently conducts public hearings regarding pending projects within the communities affected. The purpose of these hearings is to allow public input regarding the merits of a project. A transcript of the hearing is distributed to all Board members as part of a project file. • Some TF members have expressed concern that Board members should attend these hearings and be prepared to engage the public regarding concerns.	• An individual Board member's attendance at public hearings is NOT considered appropriate, for the following reasons: ▪ A given Board member may obtain "more" or "different" information regarding a project than others; ▪ The public may inundate a member with concerns regarding that member's area of specialty; ▪ Board members traveling throughout the State in attendance of public hearings is not practical in terms of availability of members' time.