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HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

SUBCHAPTER b: OTHER BOARD RULES

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AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998; amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 25 Ill. Reg. 10786, effective August 24, 2001; amended at 27 Ill. Reg. 2976, effective February 21,

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2003; amended at 30 Ill. Reg. 14852, effective September 1, 2006; amended at 31 Ill. Reg. 15270, effective November 1, 2007; amended at 32 Ill. Reg. 12355, effective July 18, 2008; amended at 37 Ill. Reg. 6227, effective June 1, 2013; amended at 38 Ill. Reg. 2869, effective February 1, 2014; amended at 39 Ill. Reg. 6347, effective June 1, 2015.

SUBPART A: AUTHORITY

**Section 1130.140 Definitions**

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Administrative Law Judge" means the person appointed to preside at administrative hearings under Subpart J of this Part and pursuant to the Act.

"Administrator" means the chief executive officer of HFSRB, responsible to the HFSRB Chairman and, through the Chairman, responsible to HFSRB for the execution of its policies and procedures.

"Adverse Action" means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns or operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" and Type "AA" violations. As defined in Section 1-129 of the Nursing Home Care Act [210 ILCS 45], "*Type 'A' violation*" means a violation of the Nursing Home Care Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that risk of death or serious mental or physical harm to a resident will result therefrom or has resulted in actual physical or mental harm to a resident. As defined in Section 1-128.5 of the Nursing Home Care Act, a "*Type AA violation*" means a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility that proximately caused a resident's death. [210 ILCS 45/1-129]

"Affirmation" means a statement, declaration, proclamation, pronouncement or notice made by an applicant regarding the information requirements for an application for exemption, with the understanding that there are still consequences to any matters that are non-compliant with the terms of the exemption issued.

"Agency" or "IDPH" means the Illinois Department of Public Health.

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"Alteration" means any revision or change to a project as detailed in the application that occurs after HFSRB issuance of the permit. A completed project cannot be altered. The site of the proposed project or the persons who are the permit holder cannot be altered.

"Applicant" means a person, as defined in the Act, who applies for a permit or exemption. See Section 1130.220 to determine what parties are necessary for an application.

"Audit" means the most recent formal examination, correction and official endorsement of financial reports by an independent certified public accountant.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any of its officers or members of its board of directors; in the case of a limited liability company, any of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, any of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, any of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual who is the proprietor.

"Capital Expenditure" *means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), 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 purposes of this definition, 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 expenditure minimum. Unless otherwise interdependent or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be*

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*considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.* [20 ILCS 3960/3]

"Capital Expenditure Minimum" means the dollar amount or value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are adjusted annually to reflect the increase in construction costs due to inflation per Section 1130.310. Current capital expenditure minimums are posted on the HFSRB website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)) and Appendix A.

"Censure" means a formal and public reprimand issued by HFSRB.

"CMMS" means the federal Centers for Medicare and Medicaid Services.

"Chairman" means the presiding officer of HFSRB.

"Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of a health care facility that: 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 to another by more than 20 beds or 10% of total bed capacity as defined by the State Board in its Inventory of Health Care Facilities and Services and Need Determinations found on the Board's website at [www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov), whichever is less, over a 2-year period.* [20 ILCS 3960/5] The two-year period begins on the date the additional beds or stations become operational. (See Section 1130.240(f) for more detail.)

"Change of Ownership" means a change in the person who has operational control of an existing health care facility or *a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control.* [20 ILCS 3960/3] Examples of change of ownership include:

a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the

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facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or

the issuance of a license by IDPH to a person different from the current licensee; or

for facilities not subject to licensing, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or

a change in the membership or sponsorship of a not-for-profit corporation; or

a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12 month period, that controls a health care facility's operations, license, certification (when the facility is not subject to licensing) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental health care facility; or

any other transaction that results in a person obtaining control of a health care facility's operations or physical plant and capital assets, including leases.

*"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. [20 ILCS 3960/3]*

*"Clinical Service Area" means a department or service that is directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility [20 ILCS 3960/3]. A clinical service area's physical space shall include those components required under the facility's licensure or Medicare or Medicaid Certification, and as outlined by documentation from the facility as to the physical space required for appropriate clinical practice.*

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"Co-applicant" means a person, as defined in the Act, who, together with other persons, applies for a permit or exemption. (See Section 1130.220 to determine what parties are necessary for an application.)

"Combined Service Area Project" means a project that consists of both clinical service areas and non-clinical service areas.

~~"Completion" or "Project Completion" means that the project has been brought to a conclusion as evidenced by one or more of the following events:~~

~~For projects with no cost that are limited to total discontinuation of a facility or for discontinuation of a category of service, the date the last patient is discharged or the date the permit for discontinuation is issued, whichever comes later; or~~

~~For projects with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date IDPH issues a revised license; or~~

~~For projects with no cost that are limited to a substantial change in beds in licensed hospitals or in State-operated facilities, the date the first patient is treated; or~~

~~For projects limited to the establishment of a category of service, the date the first patient is treated; or~~

~~For projects limited to the establishment of a health care facility, the date the health care facility is licensed or, if licensure is not required, the date the facility receives Medicare/Medicaid certification; or~~

~~For projects limited to the acquisition of major medical equipment, the date the equipment is utilized to treat the first patient; or~~

~~For projects limited to the addition of end-stage renal dialysis stations and for projects, with a cost, that are limited to the addition of beds, the date the first patient is treated; or~~

~~For all other projects, including modernization of existing facilities, project completion occurs when all components of the project are fulfilled as stated in the application for permit or exemption; or~~

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~~For projects with permits issued with conditions, the date HFSRB staff deems the conditions have been met.~~

"Completion Date" or "Project Completion Date" means the date established by the applicant for the completion of the project in the approval of the permit or subsequent renewal, ~~as evidenced by one or more of the events cited in the definition for "Completion".~~

"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 expenditures made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under the Act.* [20 ILCS 3960/3]

"Contested Case" is defined in Section 1-30 of the IAPA [5 ILCS 100/1-30].

"Control" means that a person possesses any of the following discretionary and non-ministerial rights or powers:

In the case of an entity, the ability to direct the management and policies of the entity, whether through the voting of securities, corporate membership, contract, or otherwise. Examples of such control include, without limitation:

holding 50% or more of the outstanding voting securities of an issue;

in the case of an entity that has no outstanding voting securities, having the right to 50% or more of the profits or, in the event of dissolution, the right to 50% or more of the assets of the entity;

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having the power to appoint or remove 50% or more of the governing board members of an entity;

having the power to require or approve the use of funds or assets of the entity; or

having the power to approve, amend or modify the entity's bylaws or other governance documents.

In the case of capital assets or real property, the power to direct or cause the direction of the personal property, real property or capital assets that are components of the project (i.e., fixed equipment, mobile equipment, buildings and portions of buildings). Examples of such control include, without limitation:

ownership of 50% or more in the property or asset;

serving as lessee or sublessee.

"Conversion" means a change in the control of an existing health care facility's physical plant, assets, or operations by such methods as, but not limited to, a change in ownership, acquisition, merger, consolidation, lease, stock transfer, or change in sponsorship. Types of conversion include:

change of ownership;

consolidation by combining two or more existing health care facilities into a new health care facility, terminating the existence of the existing or original facilities ( $A + B = C$ ). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensing or the loss of certification for facilities not subject to licensing;

merger by the absorption of one or more existing health care facilities into another existing health care facility. The result of the absorption is that only one facility survives ( $A + B = B$ ). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

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"Date" means, for purposes of 77 Ill. Adm. Code 1130, a time period starting at 12:00:01 a.m. of a specified day and ending at 12:00:01 a.m. the following day.

"Director" means *the Director of the Department of Public Health*. [20 ILCS 3960/3]

"Discontinuation" means to cease operation of an entire health care facility or category of service on a voluntary or involuntary basis. A permit is required prior to discontinuation. A facility or category of service that has ceased operation or has interrupted service on a temporary basis due to unanticipated or unforeseen circumstances (such as the lack of appropriate staff, or a natural or unnatural disaster) may be determined to not have discontinued, provided that the facility has exercised appropriate efforts to maintain operation and has provided documentation of the circumstances and anticipated date of restoration to HFSRB within 30 days after the temporary interruption of the service. Discontinuation also includes a determination by HFSRB that:

a category of service approved after January 1, 1992 is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100 (Narrative and Planning Policies), for that category of service, by the end of the second year of operation after project completion and on average for any two-year period thereafter (based upon data reported by the facility to HFSRB staff pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or

an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to HFSRB staff pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

**HFSRB NOTE:** HFSRB may determine that discontinuation has not occurred when a facility has complied with the requirements of this definition. Failure

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to obtain a permit prior to discontinuation may result in the imposition of sanctions or penalties as provided by the Act.

"Due Diligence" means to take such actions toward the completion of a project for which a permit has been issued with that diligence and foresight that persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause that cannot be avoided by the exercise of due diligence is a cause that reasonable prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Emergency Projects" means projects that 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 at 77 Ill. Adm. Code 1110.40(a)*. [20 ILCS 3960/12(9)]

"Entity" means any corporation, company, partnership, joint venture, association, trust, foundation, fund or other legally recognized organization, public body or municipality.

"Establish" or "Establishment" means the construction of a new health care facility, the licensing of unlicensed buildings or structures as a health care facility, the replacement of an existing health care facility on another site, or *the initiation of a category of service as defined by the Board*. [20 ILCS 3960/3]

"Estimated Project Cost" or "Project Costs" means the sum of all costs, including the fair market value of any equipment or other real property (whether acquired by lease, donation, or gift) necessary to complete a project, including:

preplanning costs;

site survey and soil investigation fees;

site preparation costs;

off-site work;

construction contracts and contingencies (including demolition);

capital equipment included in construction contracts;

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architectural and engineering fees;

consultants and other professional fees that are related to the project;

capital equipment not in construction contracts;

bond issuance expenses;

net interest expense during construction; and

all other costs that are to be capitalized.

"Exemption" means the classification of projects that are exempt from the Certificate of Need permit review process, but are reviewed under *the procedures and requirements of HFSRB regarding issuance of exemptions*. (See Subpart E.) *An exemption shall be approved when all information required by the Board, in accordance with Subpart E, is submitted.* [20 ILCS 3960/6(b)]

"Existing Health Care Facility" means any health care facility subject to the Act that:

has a license issued by IDPH and has provided services within the past 12 months, unless the failure to provide such service is the result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by IDPH; or

is certified under Titles XVIII or XIX of the Social Security Act (42 USC 1395); or

is a facility operated by the State of Illinois.

**HFSRB NOTE:** Projects approved by HFSRB for establishment of a health care facility that have not been deemed complete in accordance with the provisions of this Part shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities and shall be counted against any applicable need estimate.

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"Ex Parte Communication" means a communication between a person who is not a State Board member or employee that reflects on the substance of a formally filed 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 a 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. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file. [20 ILCS 3960/4.2]

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction, or acquisition. ~~Fair market value is documented as follows:~~

~~for equipment that is to be leased, statements from the manufacturers as to the purchase price of the equipment;~~

~~for equipment or other real property that will be a gift or donated, a statement from the donor attesting to the dollar value reported to the Internal Revenue Service pursuant to IRS Document 170;~~

~~for existing property (other than equipment) that is to be leased or otherwise acquired, copies of an appraisal performed by a certified appraiser or copies of financial statements detailing actual construction costs if the property is less than three years old; or~~

~~for property (other than equipment) that is being or will be constructed and then leased, a statement from the lessor as to the anticipated costs of construction.~~

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

the decision by HFSRB to approve or deny an application for permit. Action taken by HFSRB to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or

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the decision by HFSRB on all matters other than the issuance of a permit.

HFSRB NOTE: The decision is final at the close of business of the HFSRB meeting at which the action is taken.

"Final Realized Costs" means all costs that are normally capitalized under generally accepted accounting principles that have been incurred to complete a project for which a permit or exemption was issued. These costs include all expenditures and the dollar or fair market value of any component of the project, whether acquired through lease, donation or gift.

"Financial Commitment" means the commitment of at least 33% of total funds assigned to cover total project cost, that occurs by:

The actual expenditure of 33% or more of the total project cost; or

The commitment to expend 33% or more of the total project cost by signed contracts or other legal means. (See Section 1130.760 (Annual Progress Reports).)

"Hearing Officer" means the person with authority to conduct public hearings and to take all necessary steps to assure the proper completion of public hearings and to assure compliance with requirements of the Act. Responsibilities include: determining the order and time allotment for public testimony; maintaining order; setting and announcing new hearing dates, times and places, as necessary; determining the conclusion of the hearing and assuring that all documents, exhibits and other written materials presented or requested at the hearing are in the hearing officer's custody; and preparing a report for submittal to HFSRB.

"HFSRB " or "State Board" or "Board" means the Illinois Health Facilities and Services Review Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Intent to Deny" means the negative decision of HFSRB, following its initial consideration of an application for permit that failed to receive the number of affirmative votes required by the Act. (See Section 1130.670.)

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"Interdependent Components" means components of construction or modification that are architecturally or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken. *Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project.* [20 ILCS 3960/3]

"Inventory" means the HFSRB Inventory of Health Care Facilities and Need Determination created pursuant to Section 12(4) of the Act and found on the Board's website at [www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov).

"Major Construction Project" means:

*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 facility's operating revenue, whichever is less; and*

*Such projects as the State Board shall define and prescribe (see Section 1130.310) pursuant to the Act. [20 ILCS 3960/5]*

"Major Medical Equipment" means medical equipment that is used for the provision of medical and other health services and that costs in excess of the capital expenditure minimum, except that this 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 (42 USCA 1395x) to meet the requirements of paragraphs (10) and (11) of section 1861(S) of the Social Security 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 the equipment shall be included.* [20 ILCS 3906/3]

"Medicaid Certified" or "Medicare Certified" or "Medicaid Certification" or "Medicare Certification" means approval for a facility to receive reimbursement under Title XVIII (Medicare) and/or XIX (Medicaid) of the Social Security Act

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(42 USC 1395).

"Modification of an Application" or "Modification" means any change to an application during the review period (i.e., prior to a final HFSRB action). These changes include, but are not limited to: changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, proposed project completion date, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

HFSRB NOTE: A change of site to a site outside the planning area originally identified in the application is not considered a modification and invalidates the application.

"Moral Turpitude" means conduct that has an inherent quality of baseness, vileness or depravity with respect to another person or society in general, contrary to the accepted and customary rule of right and duty. Examples include rape, forgery, robbery, arson, counterfeiting and wrongful solicitation.

"Newspaper of General Circulation" means newspapers other than those intended to serve a particular, defined population, such as the publications of professional and trade associations.

"Newspaper of Limited Circulation" is defined in Section 8.5 of the Act.

"Non-clinical Service Area" *means an area for the benefit of the patients, visitors, staff or employees of a health care facility and 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*

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*service area" does not include health and fitness centers. [20 ILCS 3960/3]*

"Non-substantive Projects" means certain projects that have been defined in 77 Ill. Adm. Code 1110.40, with a review period of 60 days.

"Notification of HFSRB Action" means the transmittal of HFSRB decisions to the applicant or permit or exemption holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

~~"Obligation" means the commitment of at least 33% of total funds assigned to cover total project cost, that occurs by:~~

~~The actual expenditure of 33% or more of the total project cost; or~~

~~The commitment to expend 33% or more of the total project cost by signed contracts or other legal means.~~

"Operational" means that a permit holder is providing the services approved by HFSRB and, for a new health care facility or a new category of service, licensure or Medicare and/or Medicaid certification has been obtained and residents/patients are utilizing the facility or equipment or are receiving service.

"Out-of-state Facility" means a person that is both 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 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 or 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. [20 ILCS 3960/3]

"Permit" means authorization to execute and complete a project related to a health care facility, as reviewed and approved by HFSRB and as specified in the Act.

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"Permit Acceptance Agreement" means a written HFSRB communication to the permit holder, specifying and consolidating all post-permit requirements necessary to maintain the permit.

*"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof. [20 ILCS 3960/3]*

"Project ~~Financial Commitment~~~~Obligation~~ Date" means the date ~~by~~~~on~~ which the permit holder ~~is to expend or commit~~~~expended or committed~~ to expend by contract or other legal means at least 33% of the total project cost. (See Section 1130.760 (Annual Progress Reports).)

"Proposal" or "Project" means any proposed construction or modification of a health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that:

*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*

*owns, directly or indirectly, at least 50% of the health care facility; or [20 ILCS 3960/3]*

*is otherwise controlled or managed by one or more health care facilities or controls or manages the health care facility; or*

*otherwise controls or manages the health care facility; or*

*is otherwise, directly or indirectly, under common management or control with one or more health care facilities.*

"Relinquishment of a Permit" means a voluntary and knowing abandonment of a permit or exemption, forsaking all rights associated with that permit or exemption. Once relinquishment is granted by HFSRB, a relinquished permit or exemption is considered null and void. The inventory will be modified, if affected by the permit relinquishment, to the same status as prior to the permit issuance.

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"Review Period" means the time from the date an application for permit or exemption ~~is deemed complete~~~~is received~~ by HFSRB ~~staff at its principal office (Springfield office)~~ ~~deemed complete~~ until HFSRB renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Square Feet" or "SF" or "Square Footage" means a unit of measure of physical service areas or buildings considered by HFSRB. Departmental Gross Square Feet (DGSF) means the designation of physical areas for departments and services. It consists of the entire space dedicated to the use of that department or service, including walls, shafts and circulation. Building Gross Square Feet (BGSF) means the designation of physical area of an entire building. It includes all exterior walls and space within those walls.

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

the addition or discontinuation of a category of service as defined in 77 Ill. Adm. Code 1110.40(c) and Section 1130.140;

discontinuation as defined in this Part;

a change of a material representation made by the applicant in an application for permit or exemption subsequent to receipt of a permit that is relied upon by HFSRB in making its decision. Material representations are those that provide a factual basis for issuance of a permit or exemption and include:

withdrawal or non-participation in the Medicare and/or Medicaid programs;

charge information;

requirements of variances pursuant to 77 Ill. Adm. Code 1110;

other representations made to HFSRB as stipulated or agreed upon in the public record and specified in the application or the permit or exemption approval letter;

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the addition of a specialty not previously approved by HFSRB for an ambulatory surgical treatment center (ASTC) that has not been classified as a multi-specialty ASTC by HFSRB in accordance with the provisions of 77 Ill. Adm. Code 1110.1540;

an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is issued for additional stations or for the establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit; or

the acquisition, construction, or leasing of space, buildings, or structures for the purpose of providing outpatient surgical services on a site or location that is not within the licensed premises of the health care facility. Outpatient surgical services are those surgical procedures that are routinely performed in such settings as a hospital or ambulatory surgical treatment center, or in any room or area that is designed, equipped, and used for surgery, such as, but not limited to, a surgical suite or special procedures room. Outpatient surgical services do not include those procedures performed as part of a physician's private practice in examination or non-surgical treatment rooms.

"Substantially Complete" means that the application for permit has been determined ready for review, with the understanding that additional information may be needed for clarification during the course of the review period.

"Substantive Projects" means types of projects that are defined in the Act and classified as substantive. *Substantive projects shall include no more than the following:*

*Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.*

*Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.*

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*Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board in the Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/12]*

~~"Supplemental Permit" means an approved application for permit that augments or enhances an existing permit. The initial permit must be obligated, but not yet completed. Applications for permits intended to be supplemental permits shall include the basic details of the existing permit, including its status, and shall explain the inter-relationship between the two projects. The application for a supplemental permit is a distinct application for permit that is to be considered based upon its conformance with this Part. A permit holder may need to request an alteration to an existing permit if an alteration is needed to accommodate the supplemental project. The completion date of the permit being supplemented will be extended as needed, based upon approval of the supplemental application. Failure for a supplemental permit application to be approved will not affect the validity of the underlying existing permit.~~

"Technical Assistance" means help provided by an employee of HFSRB to a person, a health care facility or the HFSRB, and is not considered ex parte communication as defined in Section 4.2 of the Act. Technical Assistance may be provided to any person regarding pre-application conferences, the filing of an application, or other request to HFSRB provided that the communication is *not intended to influence any decision on the application*. Technical Assistance may be provided for the benefit of HFSRB to clarify issues relevant to an application or other business of HFSRB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. *Once an application or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file, within 10 business days after the assistance is provided.* [20 ILCS 3960/4.2]

"Temporary Suspension of Facility or Category of Service" means a facility that has ceased operation or that has ceased to provide a category of service (see 77 Ill. Adm. Code 1100.220 for category of service definition) for a period not to exceed one year, due to unanticipated or unforeseen circumstances (such as the loss of

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appropriate staff or a natural or unnatural disaster). The time period may be extended upon finding that the resumption of facility operation or category of serviceproject has proceeded with due diligence and HFSRB approval of the requested extension. The facility administrator shall file notice to HFSRB of a temporary suspension of service, in compliance with the requirements described in Section 1130.240(d).

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: GENERAL REQUIREMENTS

**Section 1130.230 Fees**

- a) HFSRB staff shall *charge and collect an amount determined by HFSRB and its staff to be reasonable fees for processing of the applications by HFSRB. HFSRB shall set amounts by rule* (see subsection (h)). *Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. All fees and fines collected under the Act shall be deposited into the Illinois Health Facilities Planning Fund to be used for the expenses of administering the Act.* [20 ILCS 3960/12.2]
- b) A fee shall be assessed on all matters requiring an application processing fee (as detailed in other Sections of this Part), except for the following:
  - 1) projects classified as emergency; or
  - 2) projects that are not subject to a fee in accordance with the provisions of Subpart E.
- c) Fee payment shall be by check or money order made payable to the Illinois Department of Public Health.
- d) Any matter requiring an application processing fee shall be declared null and void if payment of the total fee has not been received by HFSRB staff within 30 days after notice of the amount due has been received by an applicant or person requesting action from HFSRB.
- e) No action shall be taken by HFSRB on any matter requiring an application processing fee for which the total required fee has not been received.

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- f) Fee payments are not refundable and may be recovered in full or in part only by petitioning the Illinois Court of Claims for recovery.
- g) Appeal of any required fee amount is to be made to HFSRB, pursuant to Section 1130.810.
- h) Types of Fees
  - 1) Exemption Application Processing Fee  
The exemption application processing fee shall be \$2,500.
  - 2) CON Permit Application Processing Fee
    - A) All applicants, except those with projects that are not subject to a fee, are required to submit an application processing fee. An initial fee deposit of \$2,500 shall accompany each application for permit submitted to HFSRB. When an application is deemed complete, the full amount of the fee shall be determined.
    - B) HFSRB staff *shall charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. [20 ILCS 3960/12.2]*
    - C) Following the determination of estimated total project costs, the CON application processing fees are calculated as follows. For each project having a total estimated project cost of:
      - i) less than \$1,250,000, the application fee shall be \$2,500;
      - ii) above \$1,250,000, the application fee shall be 0.22% of the ~~project assigned~~ costs.
    - D) The maximum application fee shall not exceed \$100,000.

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- E) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.
- 3) Modification of an Application for Permit
- A) If a modification of an application for permit results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. This Section is applicable with respect to any additional fees required for a modified application.
  - B) If a modification results in the need for an additional notification of opportunity for public hearing, then an additional fee of \$2,000 will be assessed.
- 4) Request for Extension of ~~Financial Commitment~~Obligation
- A) A request for extension shall be assessed a \$500 application processing fee and is subject to the requirements of this subsection (h).
  - B) A request for extension that is received less than 45 days prior to the permit ~~financial commitment~~obligation date shall be subject to an additional \$500 late application processing fee.
  - C) If payment has not been received within 30 days after receipt of written notice for payment, the request for extension shall ~~not be processed~~be considered withdrawn.
- 5) Permit Renewal
- A permit renewal request shall be assessed a \$500 application processing fee and is subject to the requirements of this subsection (h). Permit renewal requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late application processing fee. If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for renewal shall ~~not be processed~~be considered withdrawn. Any renewal request

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received after the completion date is subject to the fines provided in the Act.

- 6) Post-Permit Alterations
  - A) An alteration request shall be assessed an application processing fee of \$1,000 and is subject to the requirements of this Section.
  - B) Alteration requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late application processing fee.
  - C) If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for alteration shall ~~not be processed~~~~be considered withdrawn~~. Any alteration request received after the completion date is subject to the fines provided in the Act.
  
- ~~7~~8) Relinquishment of a Permit or Exemption
  - A) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act and in Section 1130.790.
  - B) A request for relinquishment shall be assessed an application processing fee of \$1,000.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.240 Reporting and Notification Requirements**

HFSRB shall require health care facilities to provide periodic reports, data, and information as needed to carry out the purposes and provisions of the Act [20 ILCS 3960/13]. Information required to be submitted to HFSRB includes, but is not limited to, reports on capital expenditures, facility and service utilization data, facility bed capacity information, notices of hospital reductions in services, and any temporary suspension of service.

- a) Annual Report of Capital Expenditures

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Each health care facility shall submit an annual report of capital expenditures as part of the annual health care facility questionnaires issued by HFSRB. (See Section 5.3 of the Act.)

- b) **Health Planning Information**  
HFSRB shall require all health care facilities operating in the State to provide information for the purpose of fulfilling the purposes, provisions and responsibilities specified in the Act. (See Section 13 of the Act.) These reports may be on an annual or other basis.
  
- c) **Notice of Hospital Reduction of 50% or More in Health Care Services**  
Each hospital is required to notify *the State Board, the Illinois Department of Public Health, and the State Senator and 2 State Representatives representing the legislative district in which the hospital is located*, of a reduction in services of 50% or more, within 30 days after that reduction [20 ILCS 3960/12.4]. Reporting shall include the identification of the service, reasons for reduction and anticipated duration (permanent or temporary). Reduction of 50% or more is determined by the following:
  - 1) If the reduction is in a bed category of service, reduction is determined by the number of physically available beds as compared to the authorized number of beds stated in the Inventory of Health Care Facilities as updated, or the number of staffed beds reported in the Annual Hospital Questionnaire;
  
  - 2) If the reduction is in a non-bed category of service (i.e., cardiac surgery, cardiac catheterization, organ transplantation, etc.), reduction is determined when the physical number of procedure rooms, stations or equipment necessary to provide that service is reduced by 50% or more, or the number of clinical staff and/or hours of operation is reduced by 50% or more.
    - A) If reduction does not reduce the number of procedures by 50% or more, the notification is required only to HFSRB, certifying that the reduction will not reduce the number of procedures performed by 50% or more.
  
    - B) If the reduction is temporary for the purpose of maintenance or equipment repair, notification is required to HFSRB only, with a timetable to restore the service.

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- d) **Temporary Suspension of Facility or Category of Service**  
A facility that has ceased operation or that has ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) shall file notice to HFSRB of a temporary suspension of service that is anticipated to exceed 30 days. The notice shall be filed within 30 days after the suspension of the service, and shall include a detailed explanation of the reasons for the suspension, as well as the efforts being made to correct the circumstance and a timetable to reopen the service. Reports documenting the progress of corrections must be filed every 30 days thereafter until services are reopened.
- e) **Failure to Provide Required or Requested Information**  
Health care facilities and persons that fail to timely or completely comply with the notice and information requirements of HFSRB, including post-permit requirements, shall be considered in violation of the Act (see 20 ILCS 3960/13 and 14.1). This shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act and this Part.
- f) **Changes in a Health Care Facility's Bed Capacity**
- 1) "Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of a health care facility which changes the bed capacity of a health care facility by:*
- A) *increasing the total number of beds; or*
- B) *distributing beds among various categories of service; or*
- C) *relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/5]*
- 2) Projects proposing the establishment or discontinuation of a bed category of service are classified as substantive projects, with a 60-day review period. (See Section 1110.40(c).)

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- 3) A health care facility that reduces bed capacity, or adds bed capacity without a permit, as specified by the Act, shall notify HFSRB and IDPH of that change. Such a change is limited to once every two years beginning on the date when the additional beds become operational. If the facility has already changed its bed capacity through a permit process, then the facility may not add any more beds in those services affected by the permit for two years from the date that those beds established by permit become operational without obtaining an additional permit from HFSRB.
- 4) Emergency Preparedness Response Report
  - A) A health care facility that temporarily increases bed capacity to accommodate extraordinary needs in the service population due to pandemic events and other disasters shall submit written notification of the increase to HFSRB within 30 days after the bed increase decision. The notification shall include:
    - i) the number of beds increased;
    - ii) a detailed description of conditions necessitating the bed capacity increase;
    - iii) the impact on normal admission activity;
    - iv) the anticipated length of time the increase is needed, indicating the prospective date when beds will be taken out of circulation; and
    - v) the signature of a senior representative of the health care facility, verifying the information in the report.
  - B) The facility shall submit written notification to HFSRB, indicating the date that the temporary bed capacity has been taken out of circulation. This notification shall be received by HFSRB within 30 days after the date that the facility's normal bed capacity was resumed.
- g) Change in Name or Change in Legal Status

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A change in a facility's legal name or a facility's legal status (i.e., a corporate reorganization) that does not constitute a change of ownership, as defined in Section 1130.140, is to be reported to HFSRB within 90 days after occurrence.

- h) Notice of New Services Added to Multi-specialty ASTCs
  - 1) Multi-specialty ASTCs adding new services shall notify HFSRB of what services are being added and the effective date of those services. The notification of each new service added shall be submitted to HFSRB within 30 days after the service addition. Beginning January 1, 2018, multi-specialty ASTCs seeking to add additional ASTC services shall apply for a CON permit pursuant to the provisions of Section 1110.1540.
  - 2) Multi-specialty ASTCs that, as a condition of CON permit issuance, agreed to apply for CON permits when adding services, shall continue to apply for CON permits when adding new services.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: OPERATIONAL REQUIREMENTS FOR EXEMPTIONS

**Section 1130.500 General Requirements for Exemptions**

Only those projects specified in Section 1130.410 are eligible for exemption from permit requirements. Persons that have initiated or completed such projects without obtaining an exemption are in violation of the provisions of the Act and are subject to the penalties and sanctions of the Act.

- a) Application for Exemption  
Any persons proposing a project for an exemption to permit requirements shall submit to HFSRB an application for exemption containing the information required by this Subpart, submit an application fee (if a fee is required), and receive approval from HFSRB.
- b) General Information Requirements  
The application for exemption shall include the following information and any additional information specified in this Subpart:

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- 1) the name and address of the applicant and co-applicant (see Section 1130.220);
- 2) the name and address of the health care facility;
- 3) a description of the project, e.g., change of ownership, increase in dialysis stations;
- 4) documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;
- 5) a description of the applicant's organization structure, including a listing of controlling or subsidiary persons;
- 6) the estimated project cost, including the fair market value of any component and the sources and uses of funds;
- 7) the anticipated project completion date;
- 8) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFSRB; and
- 9) the application processing fee.

- c) ~~Application Processing Fee The application processing fee shall be \$2,500 (see Section 1130.230(b)(2)).~~d) Completion Requirements

A project that has received an exemption shall be completed in accordance with all applicable requirements no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

HFSRB NOTE: Projects are eligible for exemptions to a full permit process providing that they can meet all of the requirements delineated in this Subpart. If a person or project cannot meet the requirements of exemption, then an application for permit may be filed.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility**

- a) Submission of Application for Exemption  
Prior to any person acquiring or entering into a contract to acquire an existing health care facility, the person shall submit an application for exemption to HFSRB, submit the required application processing fee (see Section 1130.230) and receive approval from HFSRB.
  
- b) Application for Exemption  
The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information:
  - 1) affirmation that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities will not substantially change for at least 12 months following the project's completion date;
  - 2) complete transaction documents that have been signed by both the applicant and the existing owner that contain a provision that execution is subject to HFSRB issuance of an exemption and that contain the conditions and terms of the change of ownership;
  - 3) proof that the applicant is fit, willing, and able and *has the qualifications, background and character to adequately provide a proper standard of health service for the community* [20 ILCS 3960/6] by certifying that no adverse action has been taken against the applicant by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application;
  - 4) ~~proof that the applicant has sufficient funds to finance the acquisition and to operate the facility for a period of 36 months by providing evidence of a bond rating of "A" or better (that must be less than two years old) from Fitch's, Moody's, or Standard and Poor's rating agencies; A3 or better from Moody's (the rating shall be affirmed within the latest 18-month period prior to submittal of the application); or evidence of compliance with HFSRB financial viability review criteria applicable to the type of facility to be acquired as specified in 77 Ill. Adm. Code 1120;~~

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- 45) affirmation that the applicant intends to maintain ownership and control of the facility for a minimum of ~~two~~three years;
- 56) affirmation that any projects for which permits have been issued have been completed or will be completed or altered in accordance with the provisions of this Section;
- 67) if the ownership change is for a hospital, affirmation that the facility will not adopt a more restrictive charity care policy than the policy that was in effect one year prior to the transaction. The hospital must provide affirmation that the compliant charity care policy will remain in effect for a two-year period, following the change of ownership transaction; and
- 78) affirmation that failure to complete the project in accordance with the applicable provisions of Section 1130.500(d) no later than 24 months from the date of exemption approval (or by a later date established by HFSRB upon a finding that the project has proceeded with due diligence) and failure to comply with the material change requirements of this Section will invalidate the exemption.
- 8) a statement as to the anticipated benefits of the proposed changes in ownership to the community;
- 9) the anticipated or potential cost savings, if any, that will result for the community and the facility as a result of the change in ownership;
- 10) a description of the facility's quality improvement program mechanism that will be utilized to assure quality control;
- 11) a description of the applicant's organizational structure, including a listing of controlling or subsidiary persons;
- 12) a description of the selection process that the acquiring entity will use to select the facility's governing body;
- 13) a statement that the applicant has prepared a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.240 and that the response is available for public review on the premises of the health care facility; and

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14) a description or summary of any proposed changes to the scope of services or levels of care currently provided at the facility that are anticipated to occur within 24 months after acquisition.

c) Opportunity for Public Hearing

Upon a finding by HFSRB staff that an application for a change of ownership is complete, HFSRB staff shall publish a legal notice on three 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 three consecutive days. The legal notice shall also be posted on HFSRB's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. This legal notice shall provide the following:

- 1) Name of applicants and addresses;
  - 2) Name of facility and address;
  - 3) Description of the proposed project and estimated total cost;
  - 4) Notice of request for public hearing;
  - 5) Notice of tentative HFSRB meeting and location; and
  - 6) Notice of tentative release of the State Board Staff Report and the time to comment on the State Board Staff Report. See HFSRB website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)).
- 1) ~~the name and address of the facility for which the exemption is sought;~~
  - 2) ~~the name and address of the applicant entity requesting the exemption;~~
  - 3) ~~the nature of the transaction (e.g., the purchase, lease, or transfer of stock of the licensed entity);~~
  - 4) ~~when the entity that will be assuming ownership of the facility is a wholly~~

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~~owned subsidiary of another corporation, the name and address of the parent firm; and~~

~~5) affirmation that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by HFSRB will not substantially change (per the definition in Section 1130.140) for at least 12 months following the exemption's completion date.~~

~~d) Public Hearing Requirements~~

~~If a public hearing is requested in accordance with the requirements of the Act, the applicant shall be notified by HFSRB staff of the hearing and the applicant shall provide a summary of the proposed change of ownership for distribution at the public hearing [20 ILCS 3960/8.5]. The summary shall contain at least the following:~~

~~1) a statement as to the anticipated benefits of the proposed changes in ownership to the community;~~

~~2) the anticipated or potential cost savings, if any, that will result for the community and the facility as a result of the change in ownership;~~

~~3) a description of the facility's quality improvement program mechanism that will be utilized to assure quality control;~~

~~4) a description of the applicant's organizational structure, including a listing of controlling or subsidiary persons;~~

~~5) a description of the selection process that the acquiring entity will use to select the facility's governing body;~~

~~6) a statement that the applicant has prepared a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.240 and that the response is available for public review on the premises of the health care facility; and~~

~~7) a description or summary of any proposed changes to the scope of services or levels of care currently provided at the facility that are anticipated to occur within 24 months after acquisition.~~

~~de) Application Processing FeeThe application processing fee is \$2,500.f)Completion~~

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of Projects with Outstanding Permits

- 1) A permit or exemption cannot be transferred.
- 21) ~~*In connection with a change of ownership, the State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service. For purposes of change of ownership exemptions, outstanding permits will not be considered transferred if the following conditions are met:*~~
  - A) ~~the existing permit is not for the establishment or discontinuation of a new facility or category of service;~~
  - B) ~~the existing permit is not a substantial change in scope as defined in Section 1130.140;~~
  - C) ~~for permits establishing a new facility or a new category of service, the existing permit has been obligated and is being carried out with due diligence; (see 20 ILCS 3960/6(b).);~~
  - D) ~~the existing permit is being carried out with due diligence.~~
- 32) If the requirements of this subsection ~~(d)(f)~~ are not met, any outstanding permit will be considered a transfer of the permit and results in the permit being null and void.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds (Repealed)**

- a) ~~Application for Exemption~~

The application for exemption is subject to approval under Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information:

  - 1) ~~a description of the project that identifies the location of the neonatal intensive care unit and the number of neonatal intensive care beds proposed;~~

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- ~~2) a copy of a signed letter of support for the proposed project from the Regionalized Perinatal Advisory Committee (77 Ill. Adm. Code 640);~~
  - ~~3) a verification that a final cost report will be submitted to the Agency no later than 60 days following the anticipated project completion date;~~
  - ~~4) a verification that failure to complete the project by the anticipated project completion date or no later than 12 months from the date of exemption approval, whichever is later (or by a later date established by HFSRB upon a finding that the project has proceeded with due diligence), will invalidate the exemption.~~
- b) ~~Application Processing Fee~~  
~~The application processing fee shall be the greater of \$1,000 or .1% of the total estimated project cost, with a maximum application processing fee of \$20,000 for projects with \$20,000,000 or more estimated project cost.~~

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.540 Requirements for Exemptions Involving Discontinuation (Repealed)**

~~Discontinuation of a facility or category of service as specified in Section 1130.410 is exempt from the requirement of obtaining a permit. No letter of intent, exemption application, or fee is required for discontinuation. HFSRB shall take action to confirm the discontinuation and determine the date of discontinuation and adjust the Inventory of Health Care Facilities and Services and Need Determinations accordingly.~~

~~HFSRB NOTE: A permit is required for all discontinuation that is not exempt pursuant to the provisions of Section 1130.410. Discontinuation that has occurred without a permit is in violation of the Act and will be subject to the imposition of sanctions.~~

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.560 HFSRB Action**

- a) **Action by Chairman**  
The Chairman, acting on behalf of HFSRB, shall review all applications for exemption and approve, deny, or refer the application or material change to HFSRB for review and action. *The Chairman may approve any unopposed*

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*application that meets all of the review criteria or refer it to the full Board for review and action [20 ILCS 3960/12].* An exemption application for a change of ownership of a health care facility between related persons shall be acted upon the Chairman no later than 60 days after being declared complete by HFSRB staff or 60 days after receipt of all public hearing comments and transcripts, whichever is later.

b) Action by HFSRB

- 1) HFSRB shall evaluate each application for exemption referred by the Chairman and either issue an exemption or advise the applicant or exemption holder in writing that the application is denied and is not in conformance with exemption requirements. The number of affirmative votes for approval of an application for exemption is specified in the Act. HFSRB shall approve an application for exemption that it determines to be in compliance with the requirements. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart.
- 2) HFSRB will defer consideration of an application for exemption when the application is the subject of litigation, until all litigation related to the application has been completed.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART F: OPERATIONAL REQUIREMENTS FOR THE REVIEW  
AND PROCESSING OF APPLICATIONS FOR PERMIT

**Section 1130.620 Technical Assistance, Classification, Completeness Review, and Review Procedures ~~and Application Processing Fee~~**

a) Technical Assistance

- 1) The application shall be completed in accordance with the requirements of this Part that are applicable to the individual project. An applicant may request technical assistance or a pre-application conference from HFSRB staff regarding completion of the application and the applicability of the requirements of this Part.

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- 2) Technical assistance may be provided to any person regarding pre-application conferences, the filing of an application, or other request to HFSRB, provided that the communication is *not intended to influence any decision on the application. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed format, and shall be included in the public record.* [20 ILCS 3960/4.2]
  - 3) *Nothing in the Act shall prohibit staff members from providing technical assistance to applicants. Nothing in the Act shall prohibit staff from verifying or clarifying an applicant's information as they prepare the Board's staff report.* [20 ILCS 3960/4.2(a)]
  - 4) Technical assistance may be provided for the benefit of HFSRB to clarify issues relevant to an application or other business of HFSRB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, or consultations with independent experts. HFSRB staff shall prepare a written record of any technical assistance provided after an application is deemed complete, for inclusion in the application file.
- b) **Classification of an Application**  
An application for permit shall be classified as substantive, non-substantive or emergency, as discussed in 77 Ill. Adm. Code 1110.40.
- c) **Completeness Review**
- 1) Within 10 business days after receipt of an application for permit, HFSRB staff shall determine whether the application is substantially complete and ready to be reviewed for compliance with applicable review criteria and standards. The completeness review shall be conducted with the understanding that additional information may be necessary during the staff review period for criteria compliance, to further clarify or explain statements or data in the application. An application for any project shall be deemed complete if all of the following have been met:
    - A) all review criteria applicable to the individual project have been addressed, including the Safety Net Impact Statement (for applicants other than long term care providers);

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- B) the required fee (as outlined in subsection (d) of this Section) has been submitted;
- C) the number of copies, forms, and format as specified in the application have been submitted;
- D) all annual progress reports on previously approved projects for the facility and/or applicants have been submitted;
- E) all required information concerning completion of previously approved projects for the facility and/or applicants has been submitted;
- F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;
- G) all persons who are applicants have been identified and the applicants that hold the license and that will operate the facility have provided documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;
- H) all HFSRB requests and questionnaires for information or data for all Illinois facilities owned or operated by any applicant, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(i)) have been received and are complete;
- I) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFSRB;
- J) documentation of compliance with the Flood Plain Rule under Illinois Executive Order #2006-05;

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- K) documentation of compliance with the requirements of the Illinois State Agency Historic Resources Preservation Act; and
  - L) identification of a site.
- 2) An application shall be incomplete if any of the elements described in subsection (c)(1) are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.
  - 3) If an application fails to include any of the elements described in subsection (d)(1) or if additional information or documentation is required to clarify a response, the application shall not be scheduled for consideration by HFSRB until such time that the required information is submitted and accepted.
  - 4) Applications received after 8:30 a.m. shall be deemed as being received the following business day.
  - 5) HFSRB shall notify the applicant in writing, within the completeness review period, of its decision and, in the case of an incomplete application, the reasons.
  - 6) If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed 45 days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, HFSRB staff shall again review the application for completeness and shall notify the applicant of its decision. If HFSRB staff find that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

HFSRB NOTE: It is the responsibility of the applicant to assure that HFSRB receives the additional information within the prescribed time frame.

- d) Review Procedures

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- 1) All applications will be reviewed and evaluated for conformance with the applicable review criteria in effect at the time the application is deemed complete.
- 2) Each application will be reviewed and considered on an individual basis unless HFSRB has established review criteria or procedures that pertain or relate to comparative review or "batching" of applications.
- 3) Applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory of Health Care Facilities and Services and Need Determinations, as adjusted by HFSRB decisions in effect prior to the date HFSRB takes action on the application. HFSRB action includes the approval, issuance of an intent to deny, or denial of an application.
- 4) All applications except emergency applications are subject to the public hearing requirements of the Act. All evidence submitted at a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.

e) ~~Application Processing Fee~~

- ~~1) All applicants, except those with projects that are not subject to a fee (see Section 1130.230), are required to submit an application processing fee. An initial fee deposit of \$2,500 shall accompany each application for permit submitted to HFSRB. When an application is deemed complete, the full amount of the fee shall be determined.~~
- ~~2) HFSRB staff shall charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. The State Board shall set the amounts by rule. Application fees for continuing care retirement communities, and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. [20 ILCS 3960/12.2]~~
- 3) Following the determination of estimated total project costs, the CON application processing fees are calculated as follows: For each project having a total estimated project cost of:

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- A) ~~less than \$1,250,000, the application fee shall be \$2,500;~~
- B) ~~above \$1,250,000, the application fee shall be 0.22% of the assigned costs.~~
- 4) ~~The maximum application fee shall not exceed \$100,000.~~
- 5) ~~Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.640 Extension of the Review Period**

- a) Extension by HFSRB of the Review of Information  
As required to complete its review, HFSRB staff may extend the review period for up to 120 days for the analysis of additional information. HFSRB will consider the application at the next regularly scheduled meeting that is at least 10 days following the completion of the HFSRB review of the additional information.
- b) Extension Due to Deferral by Applicant  
The applicant may defer consideration of a project by HFSRB. A deferral extends from the HFSRB meeting at which the project has been scheduled to the next scheduled HFSRB meeting, subject to a review period of up to 60 days for analysis of additional information. A request for deferral, specifying the reasons for the request, shall be submitted to HFSRB, as follows:
  - 1) Written Request – to be received by HFSRB staff no later than 5 business days may be provided in writing prior to the scheduled HFSRB meeting;  
or
  - 2) Verbal Request – by issuing a formal request to HFSRB during the consideration of the project verbally at the HFSRB meeting.
- c) An applicant may not defer:

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- 1) initial consideration of the application by HFSRB to a meeting that is scheduled more than 6 months from the date the application was deemed complete; or
- 2) HFSRB consideration of an application that has received an Intent to Deny beyond a meeting date that is more than 12 months from the date of HFSRB's decision of Intent to Deny.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.650 Modification of an Application**

- a) Modifications to an application are allowed during the review period, prior to final HFSRB decision. Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of the Act. If requested, a hearing would occur within the time allocated for HFSRB staff review. Type A modifications consist of any of the following:
  - 1) A change in the number of beds proposed in the project.
  - 2) A change in the site of the project to a new location within the planning area. A change in site to a location outside the planning area originally identified in the application is not considered a modification and voids the application.
  - 3) A change in the cost of the project exceeding 10% of the original estimated project cost.
  - 4) A change in the total gross square footage (GSF) of the project exceeding 10% of the original GSF.
  - 5) An increase in the categories of service to be provided.
  - 6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.
  - 7) Any modification to a project, including modifications specified in subsections (a)(1) through (a)(6), that, by itself, would require a certificate of need (CON) permit or exemption.

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- b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of HFSRB, are Type B modifications and are not subject to public hearing.
- c) An applicant can modify a project only twice during the review period; provided, however, an applicant may modify a project at any time if the modification is in conformance with and limited to the comments, recommendations or objections of HFSRB.
- d) If a modification is not in conformance with and limited to the comments, recommendations or objections of HFSRB, HFSRB staff shall:
  - 1) have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria;
  - 2) hold a public hearing if requested; and
  - 3) submit its findings to HFSRB at the next regularly scheduled meeting that is at least 10 days following the completion of the HFSRB staff review.
- e) ~~If a modification results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. Section 1130.230 is applicable with respect to any additional fees required for a modified application.~~
- f) ~~If a modification results in the need of an additional notification of opportunity for public hearing, then an additional fee of \$2,000 will be assessed.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.655 HFSRB Consideration and Action**

- a) Chairman Consideration and Action
  - 1) Applications for permit that meet all of HFSRB's review criteria and are unopposed shall be:
    - A) reviewed for approval by the Chairman, acting on behalf of HFSRB [20 ILCS 3960/5]; or

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- B) referred by the Chairman to the full Board for review and action.
- 2) The review and subsequent action by either the Chairman or the full Board shall take place prior to the next regularly scheduled HFSRB meeting that is at least 10 business days following the completion of the staff review of the applications.
- b) **HFSRB Consideration and Action**  
HFSRB shall review each application for permit to determine compliance with all applicable review criteria. HFSRB shall consider the application material, additional information, public comment and public hearing testimony, HFSRB staff findings, and other information coming before it and take the following action:
- 1) approve the application and issue a permit;
  - 2) issue an Intent to Deny (an initial denial of a project);
  - 3) issue an initial denial of a project and afford the applicant an opportunity for an administrative hearing;
  - 4) issue a final denial of a project subsequent to an administrative hearing or waiver of a hearing; or
  - 5) defer action on an application to a subsequent meeting. HFSRB deferral of an application shall extend the review period, if it were to otherwise expire, until the date of the subsequent ~~HFSRB~~~~HFPB~~ meeting. HFSRB may defer consideration of an application for permit when the application is the subject of litigation, until all litigation related to the application has been completed.
- c) **HFSRB Written Decisions**  
HFSRB shall *issue written decisions, upon request of the applicant or an adversely affected party, to the Board within 30 days after the meeting in which the final decision has been made.* [20 ILCS 3960/12]

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1130.710 Validity of Permits**

A permit is effective on the date of HFSRB authorization.

- a) A permit shall be valid until the project has been completed, provided that:
  - 1) ~~financial commitment obligation~~ of the project occurs within the time frames specified in the Act unless the ~~financial commitment obligation~~ period is extended by HFSRB (as defined in Section 1130.730); and
  - 2) the project commences and proceeds to completion with due diligence. The ~~financial commitment obligation~~ period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The ~~financial commitment obligation~~ period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit.
- b) Projects shall proceed with due diligence and shall be completed (see Section 1130.140) no later than the completion date approved by HFSRB. All permits for projects that are not completed in the time frames specified shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart, unless renewed by HFSRB pursuant to Section 1130.740.
- c) A permit is valid only for the defined construction or modification, equipment, site, amount, time period and persons named in the application for the permit and shall not be transferable or assignable. A permit is invalidated by:
  - 1) ~~a~~ change in the person who is the permit holder;
  - 2) a change in the membership or sponsorship of a not-for-profit corporation that is the permit holder; or
  - 3) the transfer ~~or~~ assignment, ~~of a controlling interest in, or other disposition of 10% or more of the stock~~ or voting rights of, a for-profit corporation that is the permit holder, ~~invalidates the permit.~~
- d) A permit shall not be bought, sold, or transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment.

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- e) Other events causing a permit to become invalid include:
- 1) Change of permit (see Section 1130.710(c));
  - 2) Failure to submit the Expenditure Commitment or Obligation Report, which should be included with the annual progress reports;
  - 3) Failure to submit annual progress reports to HFSRB;
  - 4) Failure to submit Final Cost Reports to HFSRB;
  - 5) Implementation of a prohibited alteration (see Section 1130.750(c));
  - 6) Relinquishment of a permit without Board approval; and
  - 7) Failure to comply with the requirements of Section 1130.660(d).

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.720 Financial Commitment~~Obligation~~**

- a) Projects for construction, establishment or modification ~~shall~~must be financially committed by expending or committing to expend at least 33% of the total project cost~~obligated~~ no later than:
- 1) 24~~18~~ months for major construction projects; or
  - 2) 12 months for all projects that do not include major construction; or
  - 3) The HFSRB completion date of the permit, if it occurs before the deadlines in subsections (a)(1) and (a)(2).
- b) Projects that have no cost shall be considered financially committed~~obligated~~ upon HFSRB issuance of a permit.
- c) Permits for projects that have a cost and that have not been financially committed~~obligated~~ as stated in this Section shall be considered expired and the project abandoned. Failure to meet financial commitment requirements~~obligate~~ as stated shall subject the permit holder to fines pursuant to Section 1130.790(d)(1).

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(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.730 Extension of the Financial Commitment~~Obligation~~ Period**

- a) HFSRB may grant the permit holder a single extension of time to financially commit at least 33% of~~obligate~~ the total project costs. An extension shall be for a period of up to one year and shall commence on the previously defined financial commitment~~obligation~~ date.
- b) The permit holder shall submit a written request for extension, along with an application processing fee , ~~and shall provide the following documentation, as applicable:~~
- 1) ~~for major construction projects, evidence that final working drawings have been submitted to IDPH for review or, if IDPH review is not required, evidence that final working drawings have been completed;~~
  - 2) ~~for projects that are solely for the acquisition of major medical equipment, evidence that suppliers have been solicited and cost estimates received;~~
  - 3) ~~for projects that are solely for the provision of new services, verification by the permit holder's authorized representative that necessary staff has been recruited or that an application for reimbursement, recognition, or Medicare or Medicaid certification has been sought from third party payors or certification agencies;~~
  - 4) ~~confirmatory evidence that financial resources are available to complete the project (as defined in Section 1130.140 — "Completion").~~
- c) A request for extension must be in writing and received by HFSRB at least 45 days prior to the defined financial commitment~~obligation~~ date or the permit expiration date if, based on the 12-month or 24-month~~18-month~~ requirement for financial commitment~~obligation~~, the permit expiration date comes before the defined financial commitment~~obligation~~ date. A request for extension shall be assessed a \$500 application processing fee and is subject to the requirements of Section 1130.230. A request for extension that is received less than 45 days prior to the permit financial commitment~~obligation~~ date shall be subject to an additional \$500 late application processing fee. If payment has not been received

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within 30 days after receipt of written notice for payment, the request for extension shall ~~not be processed~~~~be considered withdrawn~~.

- d) HFSRB staff shall review the request for extension and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB criteria, HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve or deny the request, or refer the request to HFSRB for action. If HFSRB staff find that all criteria are not positive or if the Chairman refers this to the full Board for action, then the matter shall be sent by HFSRB staff to HFSRB members. HFSRB shall evaluate the information submitted in making its determination whether to grant the extension. Projects that continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 1120 and that have shown good cause by submitting the required information for an extension request specified in subsection (b) of this Section, and for which the causes for delays are beyond the permit holder's control, shall be approved for extension. Denial by HFSRB of an extension request shall constitute the final HFSRB decision and is not subject to administrative appeal.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.740 Permit Renewal**

A permit holder may request a completion date that is later than an approved project completion date by submitting to HFSRB a request for permit renewal.

- a) Permit renewal by HFSRB must be requested prior to the required project completion date.
- b) A permit renewal shall commence on the expiration date of the original permit.
- c) The request for permit renewal shall be in writing and shall be received by HFSRB at least 45 days prior to the expiration date of the permit, and shall include the following information:
- 1) the requested completion date;
  - 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date;

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- 3) a statement as to the reasons why the project has not been completed; and
  - 4) confirmatory evidence by the permit holder's authorized representative that the project's costs and scope are in compliance with what HFSRB approved and that sufficient financial resources are available to complete the project.
- d) HFSRB staff shall review the request and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB criteria, and if this is the first request for this project, then the request, HFSRB staff findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve or deny the request or refer the request to the full Board for action. If HFSRB staff find that all criteria are not positive, if this is not the first request for this project or, if the Chairman refers this to the full Board for action, then HFSRB will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in Section 1130.140). The number of affirmative votes required to approve a renewal request is specified in the Act. If a request for renewal of permit is denied, HFSRB may issue a Notice of Intent to Revoke a Permit if the project is not completed by the HFSRB-approved completion date. The permit holder shall be afforded an opportunity for an administrative hearing pursuant to Subpart J.

HFSRB NOTE: Permit revocation procedures are explained in Section 1130.780.

- e) ~~A permit renewal request shall be assessed a \$500 application processing fee and is subject to the requirements of Section 1130.230. Permit renewal requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late application processing fee. If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for renewal shall be considered withdrawn. Any renewal request received after the completion date is subject to the fines provided in the Act (see 20 ILCS 3960/14.1).~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.750 Alteration of Post-Permit Projects**

- a) Applicability

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The ~~cumulative~~cummulative effect of alterations to a project shall not exceed the following:

- 1) All alterations shall be reported to HFSRB before any alteration is executed. Some proposed alterations require HFSRB approval and some are prohibited. Proposed alterations that are not cited under these two categories require only written notification to HFSRB prior to execution of the alteration.
- 2) Any change after issuance of a permit may constitute an alteration. All alterations shall be reported to HFSRB before any alteration is executed.
- 3) The alteration requirements are applicable only to projects with open permits (approved projects that are not yet completed).
- 4) Alteration provisions are valid only for the projects defined and approved in the permit.
- 5) A project with a permit can be altered any time between the date of permit issuance and the project completion date.
- 6) All alterations requiring HFSRB action shall be reviewed and approved on a cumulative basis. More than one alteration can be reviewed and approved during the life of a project; however, the limits on alterations shall be applied cumulatively for a single permit.

b) Allowable Alterations Requiring HFSRB Approval

The ~~cumulative~~cummulative effect of alterations to a project shall not exceed the following:

- 1) a change in the approved number of beds or stations, provided that the change would not independently require a permit or exemption from HFSRB;
- 2) abandonment of an approved category of service established under the permit;
- 3) any increase in the square footage of the project up to 5% of the approved gross square footage;

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- 4) any decrease in square footage greater than 5% of the project;
  - 5) any increase in the cost of the project not to exceed 7% of the total project cost. This alteration may exceed the capital expenditure minimum in place when the permit was issued, provided that it does not exceed 7% of the total project cost;
  - 6) any increase in the amount of funds to be borrowed for those permit holders that have not documented a bond rating of "A-" or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application).
- c) Prohibited Alterations  
Notwithstanding the provisions of subsection (b), the following alterations are not allowed and, if incurred, invalidate the permit:
- 1) an increase in the total project costs that exceeds 7% of the permit amount;
  - 2) an increase in the project's gross square footage that exceeds 5% of the project's approved gross square footage, unless that increase is required or mandated by local, State or federal building or life safety requirements that were not in effect at the time of permit issuance;
  - 3) any other change in the project's scope or funding that would independently require a CON permit or exemption.
- d) Alteration Procedures
- 1) Written Notification
    - A) The permit holder shall notify HFSRB in writing of any alteration to a project. The notice shall include a description of the alteration and related costs (if any) and shall address all applicable review criteria related to the alteration if the alteration requires HFSRB approval. HFSRB staff shall review the alteration request for compliance with the review criteria and submit its findings to HFSRB. If additional information is needed by HFSRB staff to perform a review of the request, the permit holder shall be notified.

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- B) All alteration requests shall be submitted to the State Board in writing on 8½ by 11" paper.
  - C) All alteration requests shall be submitted within the allowable time frames established in subsection (a)(1) and shall be sent only by any recognized overnight courier or personal delivery service.
  - D) Alteration requests submitted by email or fax will not be accepted.
- 2) Compliance with 77 Ill. Adm. Code 1110 and 1120  
A request for alteration reviewed by HFSRB is subject to the provisions of 77 Ill. Adm. Code 1110 and 1120 that are applicable to the individual project. The components and any other proposed alterations to a project that would, when taken as a separate component, require a permit under the Act shall not be subject to review under this Section but shall require a new application for a permit.
- 3) HFSRB Staff Review  
HFSRB staff shall review the alteration request for compliance with the review criteria, and prepare a report of its findings for HFSRB review. If additional information is needed to review the request, the permit holder will be notified.
- 4) Board Review and Action
- A) The alteration request, HFSRB staff findings, and all related documentation shall be sent to the Chairman if:
    - i) staff review determines that the alteration request is in conformance with all HFSRB criteria; and
    - ii) this is the first alteration request for the project.
  - B) The Chairman, acting on behalf of HFSRB, shall approve or deny the request or refer the request to the full Board for consideration and action. Other conditions under which the alteration request shall be referred to the full Board for consideration and action are as follows:

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- i) the request is not in conformance with all HFSRB criteria;  
or
  - ii) the request is not the first one for an alteration concerning the project in question.
- C) The number of affirmative votes required for approval of an alteration request is specified in the Act. The approval or denial of a request for alteration constitutes HFSRB's final administrative decision.
- 5) **Inventory and Permit Amount Adjustments**  
Upon approval of a request for alteration, HFSRB will revise the permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.
- 6) **Notification of Decision to Applicant**  
Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by HFSRB staff.
- 7) **Applicable Penalties**  
Any alteration undertaken without prior HFSRB notice or notice and approval (when required) shall be considered a violation of the Act and/or subsection (a)(1) of this Section and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.
- 8) ~~**Alteration Processing Fee**  
A request for alteration shall be assessed an application processing fee of \$1,000 and is subject to the requirements of Section 1130.230.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.760 Annual Progress Reports**

- a) Each permit holder shall submit annual progress reports to HFSRB staff every 12 months from the permit issuance date until the project is completed. *A permit holder must submit annual progress reports no earlier than 30 days before and no*

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later than 30 days after each anniversary date of the Board's approval of the permit until the project is completed.

- b) To maintain a valid permit and to monitor progress toward project commencement and completion, routine post-permit reports shall be limited to annual progress reports and the final completion and cost report.
- c) Annual progress reports shall include information regarding the committed funds expended toward the approved project.
- d) If the project is not completed in one year, then, by the second annual report, the permit holder shall expend 33% or more of the total project cost or shall make a commitment to expend 33% or more of the total project cost by signed contracts or other legal means, and the report shall contain information regarding those expenditures or commitments.
- e) If the project is to be completed in one year, then the first annual report shall contain the expenditure commitment information for the total project cost.
- f) The State Board may extend the expenditure commitment period after considering a permit holder's showing of good cause and request for additional time to complete the project. [20 ILCS 3960/5]

~~The annual progress reports are due by the anniversary date of HFSRB approval of the permit. The reports shall include:~~

- ~~1) current status of the project, including the percentage of the project finished, components finished and components yet to be finished, and any changes in the scope of the project and size;~~
  - ~~2) cost incurred to date and an itemized listing of the total current estimated project costs and a comparison of those costs to the approved permit amounts;~~
  - ~~3) the method of financing the project and sources of funds; and~~
  - ~~4) the anticipated date of completion.~~
- gb) Failure to provide the required annual progress reports will result in future applications being considered incomplete by HFSRB staff until the required

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reports are received.

- he)** Failure to timely process the required annual progress reports shall be considered a violation of the Act and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.
- id)** All information submitted to HFSRB regarding annual progress reports shall be submitted on 8½ by 11" paper.
- je)** All information regarding annual progress reports shall be submitted within the allowable time frames established in subsection (a) and shall be sent only by any recognized overnight courier or personal delivery service.
- kf)** Annual reports submitted by email or fax will not be accepted.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns**

- a) Written Notification
  - 1) Each permit holder shall notify HFSRB upon its project completion.
  - 2) All information concerning project completion shall be submitted on 8½ by 11" paper.
  - 3) All information regarding ~~project progress~~ completion shall be submitted within the allowable time frames established in ~~subsections~~ subsections (a)(1) and (a)(5) and shall be sent only by any recognized overnight courier or personal delivery service.
  - 4) ~~Notices of~~ No project completion ~~and final realized costs reports~~ will not be accepted by email or fax.
  - 5) The ~~report of notification shall be submitted no later than 90 days following the~~ project completion ~~and final realized costs, including date.~~ The permit holder shall provide the supporting documentation listed in subsections ~~(b), (c) and (d),~~ shall be submitted within 90 days following the ~~project completion date~~ notification.

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- 6) The permit holder may request an extension of the deadline for submission of the final project cost report by meeting the requirements stated in Section 1130.740 (Project Renewal).
- b) For projects with no cost, the permit holder shall submit a written notice to HFSRB of the project's conclusion (e.g., initiation of a new service, discontinuation, certification of additional dialysis stations).
- c) For a project with a cost below the capital expenditure minimum, the permit holder shall submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:
- 1) a detailed itemization of all project costs and sources of funds;
  - ~~2) an itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX of the Social Security Act;~~
  - ~~23)~~ 23) a certification that the final realized costs, as itemized, are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project ~~that will be submitted for reimbursement under Title XVIII or XIX;~~
  - 34) certification attesting to compliance with the requirements of this Section shall be in the form of a notarized statement signed by an authorized representative of the permit holder; and
  - ~~45)~~ 45) for major construction projects, the final Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.
- d) For a project with a cost above the capital expenditure minimum in place at the time of permit approval, the permit holder shall submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:
- 1) itemization of all project costs;
  - ~~2) itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX;~~

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- 23) certification that the final realized costs, as itemized, are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project ~~that will be submitted for reimbursement under Title XVIII or XIX~~;
- 34) certification of compliance with all terms of the permit to date, including project cost, square footage, services, etc.; certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative the permit holder;
- 45) the final Application and Certification for Payment for the construction contract, as per the American Institute of Architects form G702 or equivalent; and
- 56) for permits with a project cost equal to or greater than three times the capital expenditure minimum in place at the time of permit approval, an audited financial report of all project costs and sources of funds. The audited financial report, when required, shall be completed by an independent certified public accountant. A financial report completed by a permit holder's internal auditor will not be accepted.
- e) Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete by HFSRB staff until the required report is filed. In addition, the permit holder will be subject to fines, penalties and sanctions as mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.
- f) Failure to timely file the project's report of project completion and final realized ~~cost~~~~cost report, notice of project completion~~, all necessary supporting documentation following the project completion, or any project cost overrun information shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.
- g) Any amount of the final realized cost that exceeds the approval permit amount shall be considered a cost overrun without a permit unless the amount is subsequently approved by HFSRB. *Projects may deviate from the costs, fees, and expenses provided in their project cost information for the project's cost*

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*components, provided that the final total project cost does not exceed the approved permit amount [20 ILCS 3960/5].*

- h) Any project with a cost overrun shall not be complete until HFSRB determines that the project has complied with all project completion requirements, as determined by HFSRB.
- i) Any project that is compliant with the conditions of its permit shall not be complete until HFSRB determines that the project completion requirements have been met.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.775 Relinquishment of a Permit**

The holder of an HFSRB permit may request to withdraw or abandon that permit. The request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the permit is considered null and void. Requests for relinquishment shall be considered only for permits that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the permit.

- a) **Relinquishment Procedure**  
The permit holder shall notify HFSRB in writing, prior to the abandonment or withdrawal of a project. The notice shall include:
  - 1) A description of the permit and related costs;
  - 2) A detailed explanation of the reasons for abandonment; and
  - 3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.
- b) HFSRB staff shall review the request for withdrawal and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.
- c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.

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- d) Decisions on requests for relinquishment shall be transmitted in writing to the permit holder.
- e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.
- f) ~~A request for relinquishment shall be assessed an application processing fee of \$1,000.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and HFSRB Rules**

- a) *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 or portion thereof until the required permit is obtained. [20 ILCS 3960/13.1]*
- b) *Any person acquiring major medical equipment or establishing, constructing or modifying a health care facility without a permit issued under the 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. [20 ILCS 3960/14]*
- c) *HFSRB may deny an application for permit or may revoke or take other action as permitted by the Act with regard to a permit as HFSRB deems necessary, including the imposition of fines. [20 ILCS 3960/14.1(a)]*
- d) *HFSRB may impose fines as specified below for the enumerated violations:*
  - 1) *A permit holder who fails to comply with the requirements for 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. [20 ILCS 3960/14.1(b)(1)]*

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- 2) *A permit holder who alters the scope and size of an approved project or whose project costs exceed the allowable permit amount without first obtaining HFSRB approval shall be fined an amount not to exceed the sum of:*
  - A) *The lesser of \$25,000 or 2% of the approved permit amount; and*
  - B) *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. [20 ILCS 3960/14.1(b)(2)]*
- 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 might 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. [20 ILCS 3960/14.1(b)(3)]*
- 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. [20 ILCS 3960/14.1(b)(4)]*
- 5) *A person who discontinues a health care facility or 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. Facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act, with exception of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act must comply with Section 3-423 of the Nursing Home Care Act or Section 3-423 of the MR/DD Community Care Act and must provide the Board with 30-days' written notice of its intent to close [20 ILCS 3960/14.1(b)(5)].*
- 6) *A person subject to the Act who fails to provide information requested by HFSRB or its staff within 30 days after 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*

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HFSRB or its staff. [20 ILCS 3960/14.1(b)(6)]

- e) If an individual or entity has failed to comply with the Act or HFSRB rules and has been notified by HFSRB about an allegation of noncompliance, this shall provide a basis for HFSRB to defer consideration of any and all applications, rulings, or advisory opinions filed before HFSRB until the noncompliant matter is resolved.
- f) Failure to pay any fine imposed under this Section within 30 days after its imposition, or by a specified date if the default of payment extends past 30 days, shall subject the person to other sanctions permitted by the Act as HFSRB deems appropriate.
- g) If an individual, entity or person who has failed to comply with the Act or HFSRB rules, waives his or her right to an administrative hearing regarding the noncompliance and waives an opportunity to appear before HFSRB to respond to the noncompliance matters, HFSRB is authorized to use in-kind services to reduce the fines in the negotiation of settlements.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

**Section 1130.1050 Appearance – Right to Counsel**

- a) Any party to the proceeding may appear and be represented by an attorney at law authorized to practice in the State of Illinois.
- b) A corporation, limited liability company, partnership or association shall appear and be represented only by an attorney authorized to practice law in the State of Illinois. A shareholder, corporate officer, employee or member of the board of directors may not appear or represent a corporation or association unless that individual is authorized to practice law in the State of Illinois.
- c) All persons appearing in proceedings before the Board shall conform to the standards of ethical conduct required of attorneys before the courts of Illinois. If any person or attorney does not conform to those standards, the administrative law judge may decline to permit that person to appear in any proceeding.

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- d) Any attorney or other person, other than the Board counsel, appearing before the Board shall file an appearance form containing: the name of the party represented; the name, address and telephone number of the attorney or representative; an affirmative statement that the attorney is or is not duly licensed in the State of Illinois; and the written signature of the attorney or representative.
- e) Special appearances are not recognized. The initial appearance, regardless of form, is deemed a general appearance.
- f) An attorney may withdraw his or her appearance and/or representation only upon motion and appropriate ruling by the administrative law judge. However, attorneys may be substituted without motion upon notice to all parties and the administrative law judge if the substitution will not delay the proceedings, a statement to that effect is contained in the notice, and a substitute appearance form is filed concurrently with the notice.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.1110 Conduct of Hearings**

- a) All hearings conducted in any proceedings shall be open to the public.
- b) Hearings shall commence and proceed with due diligence.
- c) Hearings will be conducted by an administrative law judge, appointed by the HFSRB Chairman~~Director of IDPH~~.
- d) The administrative law judge shall conduct hearings; administer oaths; issue subpoenas; regulate the course of hearings; hold informal conferences for the settlement, simplification, or definition of issues; dispose of procedural requests, motions, and similar matters; continue the hearing from time to time when necessary; examine witnesses; and rule upon the admissibility of evidence and amendments to pleadings.
- e) In a hearing to consider the denial of a permit or certificate of recognition, the applicant shall have the burden of establishing that the proposed project or application for certificate of recognition, as the case may be, for which application for permit or recognition is made is consistent with the standards, criteria, or plans adopted by HFSRB upon which the finding and decision of HFSRB were made; only testimony and evidence as are relevant shall be offered or accepted.

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- f) All parties to an administrative hearing shall have the right to give testimony, produce evidence, cross-examine adverse witnesses and present arguments relevant to the question of consistency and conformity of the proposed project with the adopted standards, criteria or plans upon which the finding and decision of HFSRB were made.
- g) The administrative law judge shall direct all parties to enter their appearances on the record.
- h) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.
- i) At any stage of the hearing, or after all parties have completed the presentation of their evidence, HFSRB or its administrative law judge may call upon any party or the technical staff of HFSRB or other departments of State government or State Universities for further material or relevant evidence upon any issue. All parties at interest shall be afforded the right to present further evidence or material, or contradict the evidence or material presented, as per the provisions of the IAPA.
- j) The rules of evidence and privilege as applied in civil cases in the Circuit Court of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, unduly repetitious material shall be excluded. All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of HFSRB and also in formulating the findings of fact and conclusions of law (if any) that support the decision. A copy of the whole or any part of an admissible book, record, paper, or memorandum of HFSRB staff that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is contained in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter. If, in the judgment of the administrative law judge, the immaterial or irrelevant matter would unnecessarily encumber the record, the book, paper, or document will not be received in evidence as a whole, but the material or relevant portions, if otherwise admissible, may be read into the record

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or entered as an exhibit. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

- k) Official notice may be taken of matters of which Circuit Courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within HFSRB's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. HFSRB's experience, technical competence and specialized knowledge may be used in the evaluation of evidence.
- l) HFSRB's legal counsel and/or the Administrator will arrange for a certified stenographic reporter (court reporter) to make a stenographic record of the hearings in all administrative hearings under this Part. Any persons may make arrangements to obtain a copy of the stenographic record from the reporter.
- m) Suggested corrections to the transcript of record may be offered within 10 days after the transcript is filed in the proceedings, unless the Director of IDPH or the administrative law judge permits suggested corrections to be offered thereafter. Suggested corrections shall be served upon or brought to the attention of such party whose appearance is of record or his/her attorney, the official reporter, and the administrative law judge. If suggested corrections are not objected to, the administrative law judge will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the administrative law judge, who shall then determine the manner in which the record shall be changed, if at all.
- n) Written opening arguments and written closing arguments shall not be permitted unless all parties so stipulate.
- o) Absent a showing of good cause, no document shall be offered into evidence that was not disclosed in accordance with the requirements in Section 1130.1120, and no witness shall testify whose name was not provided pursuant to Section 1130.1120. For purposes of this subsection, a showing of good cause shall mean that a party, through no fault of its own, did not have knowledge of a document to be offered into evidence or the name of a witness within the time frame necessary for compliance with Section 1130.1120.

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- p) If a party, or any person at the insistence of or in collusion with a party, violates any ruling of the administrative law judge, the administrative law judge, on motion, may enter such orders as are just, including, among others, the following:
- 1) that further proceedings be stayed until the order or rule is complied with;
  - 2) that the offending party be barred from filing any other pleadings relating to any issue to which the refusal or failure relates;
  - 3) that he or she be barred from maintaining any particular claim or defense relating to that issue;
  - 4) that a witness be barred from testifying concerning that issue;
  - 5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that his or her pleading be dismissed without prejudice; or
  - 6) that any portion of his or her pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.
- q) At any time, the administrative law judge may order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or otherwise engaging in conduct that disrupts the hearing.
- r) At the request of any party, the administrative law judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.1150 Administrative Law Judge's Report and Recommendation~~Final Decision~~**

- a) At the conclusion of an administrative hearing, the administrative law judge shall make a written report of the hearing, with findings of fact and conclusions of law and his or her recommendations, if any, to HFSRB through the HFSRB Administrator. The report shall be accompanied by a transcript of the record, all exhibits admitted into evidence, copies of all pleadings and documents or

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evidence made a part of the record and any other material that is deemed to be a part of the record.

- b) The administrative law judge shall render a report as promptly as possible. The administrative law judge shall take actions necessary to ensure that the hearing is completed within a reasonable period of time, which shall not exceed 120 days, except for delays or continuances agreed to by the person requesting the hearing (see Section 10 of the Act)~~Except in unusual cases and for cause shown, the report should be made within 30 working days following the date the hearing is closed.~~

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1130.1160 Proposal for Decision (Repealed)**

- ~~a) When a majority of the members of HFSRB who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than HFSRB, shall not be made final until a written proposal for decision is served upon the parties by certified mail and the provision of this Section complied with.~~
- ~~b) The proposal for decision shall be written by the administrative law judge. The Proposal for Decision shall:~~
- ~~1) indicate the proposed order;~~
  - ~~2) contain a statement of the reasons for the proposed decision;~~
  - ~~3) contain a statement of each issue of fact or law necessary to the proposed decision; and~~
  - ~~4) indicate the time in which the adversely affected parties have to file written exceptions and a brief.~~
- ~~e) A party adversely affected by a proposal for decision shall within 10 days after receipt of the proposed finding submit in writing a notice of an intent to file exceptions and a written brief. Failure to file such notice within this time limit shall constitute a waiver of the right to file exceptions and a brief.~~
- ~~d) There shall be no right to oral arguments before HFSRB on proposed decisions.~~

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- e) ~~Written exceptions and brief are to be submitted within 30 days after receipt of the proposed decision. HFSRB may in its discretion, upon the showing of good cause by a party, grant additional time for the submission of the exception and brief if the request for the additional time is made prior to the time for submission of the written exceptions and brief.~~

(Source: Repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)