

February 10, 2016

Jeannie Mitchell
 Assistant General Counsel
 Health Facilities and Services Review Board
 69 West Washington Street, Suite 3501
 Chicago, IL 60602

Dear Ms. Mitchell:

On behalf of its over 200 hospital and nearly 50 health system members, the Illinois Health and Hospital Association appreciates the opportunity to comment on the Proposed Rules published at 39 Illinois Register 16277. We request your consideration of the following comments:

1130.410- Projects or Transactions Exempt from Permit Requirement. Rather than moving in the direction of streamlining Planning Act requirements, this section removes several types of projects that currently may apply for a certificate of exemption (COE). We believe we understand the reason to eliminate the items in subsection (b)(4), since those would likely result in closure of the facility (revocation of license, loss of Medicare and/or Medicaid, discontinuation action taken by HFSRB, the voluntary surrender of a suspended license) and pursuant to recent legislation, any facility closure now requires a COE. However, we are concerned that the removal of subsections (c) and (d) implies that a certificate of need (CON) would be required for the following projects. We ask that you continue to allow a COE in these two circumstances:

- **1130.410 (c) The combination of two or more existing health care facilities into a single licensed health care facility, when:**
 - the existing facilities are located on the same site or on adjacent sites;
 - the licensed person for the existing facilities is the same;
 - the combination is for the sole purpose of operating the existing facilities under a single license; and
 - the combination does not involve any cost, change in scope of services provided, or change in bed capacity.

The Hospital Licensing Act provides that a hospital located in a county with fewer than 3,000,000 inhabitants may apply to the Department for approval to conduct its operations from more than one location *within the county* under a single license. (210 ILCS 85/4.5). The hospital must meet certain enumerated requirements, including complying with the requirements of the Health Facilities Planning Act.

An existing hospital system with more than one hospital in the same county may wish to realize efficiencies with operation of the two hospitals under a single license. Therefore,

TRUSTEES & OFFICERS

Chair
 Michael S. Eesley
Centegra Health System

Chair-Elect
 Edgar J. Curtis
Memorial Health System

Immediate Past Chair
 Dean M. Harrison
Northwestern Memorial HealthCare

Treasurer
 William Santulli
Advocate Health Care

Secretary
 Mark Deaton (Officer only)
Illinois Health and Hospital Association

President
 A. J. Wilhelm
Illinois Health and Hospital Association

Rex D. Conger
Perry Memorial Hospital

David L. Crane
AMITA Health

Pam Davis
Edward-Elmhurst Health

Michael Englehart
Presence Health

Larry Goldberg
Loyola University Health System

Maureen Kahn
Blessing Health System

Phillip Kambic
Riverside Medical Center

Barbara J. Martin
Vista Health System

Nancy M. Newby, PhD
Washington County Hospital

José R. Sánchez
Norwegian American Hospital

Kevin Schoepfle
OSF HealthCare

John Jay Shannon, MD
Cook County Health & Hospitals System

Mary Starmann-Harrison
Hospital Sisters Health System

Mark B. Steadham
Morris Hospital & Healthcare Centers

Anthony Tedeschi, MD
Weiss Memorial Hospital

Karen Teitelbaum
Sinai Health System

Mark Turner
Memorial Hospital

Brenda J. Wolf
La Rabida Children's Hospital

in order to mitigate the regulatory burden, we ask that you re-instate subsection 410 (c) to allow a COE for the combination of two or more existing health care facilities into a single licensed health care facility, but also consider allowing the COE for a combination *within a county*, in accordance with the Hospital Licensing Act provision, rather than only for facilities on the same or adjacent sites.

- **1130.410 (d) A proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.**

We ask you to consider re-instating subsection (d) to allow a COE for the establishment or expansion of a NICU. This will afford some degree of flexibility to a facility designated as a Level II with Extended Neonatal Capabilities that may wish to establish a NICU. Doing so would still require extensive review by the Regionalized Perinatal program and application to that program to become a Level III hospital, a requirement for a NICU. Allowing a COE instead of a CON would slightly lessen extensive regulatory requirements in these situations. In addition, allowing a COE for an expansion of an existing NICU's beds beyond what the current rule allows (20 beds or 10%, whichever is less over a two year period) would permit hospitals to adapt rapidly when there are pertinent demographic changes or other changes.

1130.570-Validity of an Exemption and Reporting Requirements. It should be made clear that a certification that the transaction was completed in accordance with the key terms (subsection (e)) is required only where an applicant for a change of ownership has elected to submit key terms of the transaction as in (c)(2), rather than final transaction documents, as in (c)(3). Subsections (c)(2) and (e) should be amended as follows:

(c)(2) For changes of ownership in which the applicant submitted key terms of the transaction, certification that the transaction was or was not completed according to the key terms contained in the application. The Board must receive the certification within 90 days after the closing date of the transaction; ~~and~~

e) Where an applicant has submitted key terms of the transaction rather than final transaction documents, *an exemption for a change of ownership of a health care facility shall be invalid if the exemption holder fails to submit a statement to the Board within 90 days after the closing date of the transaction, or such longer period as provided by the Board, certifying that the change of ownership has been completed in accordance with the key terms contained in the application. If such key terms of the transaction change, a new application is required.*”

1130.230- Fees. While we appreciate that the maximum application fee has not changed, doubling of other fees seems excessive, especially with respect to the processing fee for a certificate of exemption (COE) where staff work should be considerably less than for a full certificate of need (CON) application. In the case of an application for a change of ownership, the applicant will now also pay the cost incurred by the Board in publishing the legal notice on the change of ownership, another increased cost for the applicant.

Thank you for your consideration of our comments.