Illinois Health and Hospital Association

The Spring 2026 legislative session resulted in changes to the Health Facilities Planning Act (the Act), which governs the Certificate of Need (CON) process. This memo provides a summary of those laws.

P.A. 104-0557 amends the Act in various sections, making non-substantive clean-up changes, as well as the following substantive changes:

- Adds definitions of “Certificate of Need” (or “Permit”), “Certificate of Exemption” (or “Exemption”) and “Discontinuation.”
- Clarifies that a permit is only applicable for a site determined by legal street address or corresponding legal description.
- Removes requirements that the Review Board must make public postings in local newspapers, and instead post on websites or at local government buildings.
- Clarifies processes and timing of public hearings.
- Allows the Review Board to defer action in a case where there is pending litigation until the litigation is complete, instead of for up to 6 months.
- Clarifies that a Certificate of Need permit is required to close a hospital, even if the hospital is on multiple campuses under one license.

P.A. 104-0782 is a follow-up to P.A. 103-0526, which became effective on Jan. 1, 2024 and expanded state oversight over healthcare market mergers, acquisitions, and contracting affiliations. P.A. 104-0782 amends the Act by making substantive changes in two areas and removes the sunset provision:

First, in the definitions section, the following changes are made:

- A "covered transaction" is amended to clarify that it means any merger, acquisition, or contracting affiliation involving two or more healthcare facilities, or provider organizations not previously under common ownership or contracting affiliation. Further, it adds that a transaction is a "covered transaction" subject to the notice requirements even if the parties to the transaction are not themselves a healthcare facility or provider organization but own or control, directly or indirectly, one or more of the two or more healthcare facilities or provider organizations that will be under common ownership or contracting affiliation if the transaction is consummated, including if parties to the covered transaction are private equity companies.
- "Private equity company" has been added to the Act, defined as any company or partnership that collects capital investments from individuals or entities and purchases, as a parent company, at any level of corporate ownership, or through another entity or entities so that the company completely or partially owns or controls a direct or indirect ownership share of an Illinois healthcare entity or an out-of-state healthcare entity that generates $10,000,000 or more in annual revenue from patients residing in this state.

Second, the legislation clarifies that if an applicant is required to share its Hart-Scott-Rodino pre-merger notification filing with the Illinois Attorney General, then it must provide a complete copy of the filing, such as including all the exhibits.

Finally, it removes the sunset provisions, thereby making permanent these notification provisions that were originally enacted by P.A. 103-0526 in 2023.

Through IHA’s advocacy efforts, more significant changes to the Act were removed from these pieces of legislation as originally

introduced; however, we anticipate further attempts to change the CON process, particularly as it applies to changes of ownership and service line reductions or discontinuations. IHA will continue to collaborate with the Health Facilities and Services Review Board and other stakeholders on these critical issues.

If you have any questions, please contact us.
