

TITLE 77: PUBLIC HEALTH  
CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD  
SUBCHAPTER b: OTHER BOARD RULES

PART 1126  
SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES (SMHRFs)

SUBPART A: AUTHORITY

Section	
1126.110	Statutory Authority
1126.120	Introduction
1126.130	Definitions
1126.140	HFSRB Procedural Rules

SUBPART B: PLANNING POLICIES

Section	
1126.210	Specialized Mental Health Rehabilitation Category of Service – Planning Policies

SUBPART C: GENERAL INFORMATION REQUIREMENTS

Section	
1126.310	Purpose of the Project – Information Requirements
1126.320	Alternatives to the Proposed Project – Information Requirements

SUBPART D: SPECIALIZED MENTAL HEALTH REHABILITATION  
FACILITIES – REVIEW CRITERIA

Section	
1126.410	Introduction
1126.420	Discontinuation of a SMHRF
1126.430	Establishment of a SMHRF in an Underserved Planning Area
1126.440	Modernization

SUBPART E: FINANCIAL AND ECONOMIC FEASIBILITY – REVIEW CRITERIA

Section	
1126.510	Estimated Total Project Cost
1126.APPENDIX A	Project Size Standards – Square Footage
1126.APPENDIX B	Financial and Economic Review Standards

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

SOURCE: Adopted at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: AUTHORITY

**Section 1126.110 Statutory Authority**

This Part is promulgated by authority granted to the Illinois Health Facilities and Services Review Board under the Illinois Health Facilities Planning Act [20 ILCS 3960].

**Section 1126.120 Introduction**

- a) After the effective date of this Part, all applications in the review process and all projects for which permits have been issued, but have not yet been completed, shall be subject to this Part.
- b) The HFSRB rules in effect on the date of alleged violation of the Act or rules shall be applicable concerning all considerations and issues of compliance with HFSRB requirements.
- c) *At no time shall the total number of licensed beds under the Specialized Mental Health Rehabilitation Act of 2013 (SMHRA) [210 ILCS 49] exceed the total number of licensed beds existing on July 22, 2013. [210 ILCS 49/10.5]*
- d) *No new facilities licensed under SMHRA shall be established after June 16, 2014 except in connection with the relocation of an existing facility to a new location. [20 ILCS 3960/12(17)]*

**Section 1126.130 Definitions**

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

"Adverse Action" means a disciplinary action taken by IDPH, federal Centers for Medicare and Medicaid Services (CMMS), or any other State or federal agency against a person or entity that owns and/or operates a licensed or Medicare or Medicaid certified SMHRF in the State of Illinois. These actions include, but are not limited to, a financial penalty, probation, revoked license, restricted license or the inability to be licensed or relicensed as set forth in SMHRA Section 4-109 and 77 Ill. Adm. Code 380.750.

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

"Applicant" means one or more persons, as defined in the Act, who apply for a permit or exemption. (See 77 Ill. Adm. Code 1130.220 to determine what parties must jointly apply for an application.)

"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;

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);

partnership, any of its general partners (or the sole general partner when two or more general partners do not exist);

estate or trust, any of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and

sole proprietor, the individual who is the proprietor.

"Capital Expenditure" means an expenditure made by or on behalf of a SMHRF (as such a facility is defined in the Act) that, 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 that 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 the expenditure exceeds the capital expenditure minimum. Donations of equipment or facilities to a SMHRF that, if acquired directly by that facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure 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 that would require a permit for capital projects and major medical equipment. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation under 77 Ill. Adm. Code 1130.310.

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

"Chairman" means the presiding officer of HFSRB.

"Change of Ownership" means a change in the person who has operational control of an existing SMHRF or *a change in the person who has ownership or control of a SMHRF'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 facility is not subject to licensure), or in the person who owns or controls the SMHRF's physical plant and capital assets;

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

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

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 SMHRF's operations, license, certification (when the facility is not subject to licensing), or physical plant and capital assets;

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 SMHRF; or

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

"Charity Care" *means care provided by a SMHRF for which the provider does not expect to receive payment from the patient/resident or a third party payer.* [20 ILCS 3960/3]

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

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

"Completion Date" or "Project Completion Date" means the date established by the applicant for the completion of the project, as stated in the CON permit application.

"Construction" or "Modification" *means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a SMHRF, or the purchase or acquisition by or through a SMHRF 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 SMHRF that exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a SMHRF for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act [210 ILCS 9] or a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act [320 ILCS 42] shall be excluded from any obligations under the Act.* [20 ILCS 3960/3]

"Contested Case" has the meaning ascribed in Section 1-30 of the Illinois Administrative Procedure Act [5 ILCS 100].

"Control" means a person possesses any of the following discretionary and nonministerial 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 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;

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 control include, without limitation:

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

serving as lessee or sublessee.

"Director" means the Director of the Department of Public Health.

"Due Diligence" means to take 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 reasonably 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.

"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 SMHRF, the licensing of unlicensed buildings or structures as a SMHRF, the replacement of an existing SMHRF on another site, or the initiation of a category of service defined by the Board.* [20 ILCS 3960/3]

"Estimated Project Cost" or "Project Cost" 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;

architectural and engineering fees;

consultant 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.

"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 State Board 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.

"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 an administrative hearing; or

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, which 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.

"Financial Commitment Date" means the date on which the permit holder expended or committed to expend by contract or other legal means at least 33% of the total project cost.

"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" means the Illinois Health Facilities and Services Review Board.

"HFSRB Inventory" or "Inventory" means the HFSRB Inventory of Health Care Facilities and Services and Need Determinations, located at HFSRB's website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)).

"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.

"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 HFSRB shall define and prescribe pursuant to the Act.*  
[20 ILCS 3960/5]

"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 (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;

the 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.

"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" means a newspaper intended to serve a particular or defined population of a specific geographic area within a Metropolitan Statistical Area such as a municipality, town, village, township or community area, but does not include publications of professional and trade associations. [20 ILCS 3960/8.5(a)]*

"Non-Substantive Projects" means projects that have been classified as non-substantive under 77 Ill. Adm. Code 1110.40. HFSRB will review a non-substantive project within 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.

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

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

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

"Proposal" or "Project" means any proposed construction or modification of a long term 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 SMHRF or a person owning, directly or indirectly, at least 50% of the SMHRF;*

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

*is otherwise controlled or managed by one or more SMHRFs;*

*controls or manages the SMHRF; or*

*is otherwise, directly or indirectly, under common management or control with one or more SMHRFs.*

"Review Period" means the time from the date an application for permit or exemption is 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.

"SMHRA" means the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

"SMHRF" means Specialized Mental Health Rehabilitation Facility.

"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 entirety of 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 of a category of service;

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 and include:

withdrawal or nonparticipation in the Medicare and/or Medicaid programs;

charge information;

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

"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;*

*Projects proposing a change in the bed capacity of a SMHRF 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 HFSRB, whichever is less, over a 2 year period. [20 ILCS 3960/12]*

"Technical Assistance" means help provided by an employee of HFSRB to a person, SMHRF or the State Board, 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 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 service 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).

"Underserved" means a planning area in Illinois that does not have another Specialized Mental Health Rehabilitation Facility.



**Section 1126.140 HFSRB Procedural Rules**

The Certificate of Need review process and all applicable procedures and requirements are contained in 77 Ill. Adm. Code 1130.

## SUBPART B: PLANNING POLICIES

**Section 1126.210 Specialized Mental Health Rehabilitation Category of Service – Planning Policies**

- a) Category of Service: Specialized Mental Health Rehabilitation
- b) Planning Areas: Health Service Areas are used for SMHRF services.
- c) Occupancy Targets:
  - 1) Modernization: 80%;
  - 2) Establishment: 90%.
- d) Bed Capacity: For facilities licensed pursuant to SMHRA, the bed capacity is the licensed bed capacity for the service.
- e) Bed Need Determination for the Specialized Categories of Service: No bed need formula for the SMHRF category of service has been developed. It is the responsibility of the applicant to document the need for the service by complying with all applicable review criteria contained in 77 Ill. Adm. Code 1126.

## SUBPART C: GENERAL INFORMATION REQUIREMENTS

**Section 1126.310 Purpose of the Project – Information Requirements**

The applicant shall document that the project will provide health services that improve the well-being of the market area population to be served. The applicant shall identify the proposed planning area.

- a) The applicant shall address the purpose of the project, i.e., identify the issues or problems that the project is proposing to address or solve. Information to be provided shall include, but is not limited to, identification of existing problems or issues that need to be addressed, as applicable and appropriate for the project. Examples of this information include:
  - 1) The area's demographics or characteristics (e.g., rapid area growth rate, increased SMHRF population) that may affect the need for services in the future;
  - 2) The incidence of various diseases in the area;
  - 3) The population's financial ability to access SMHRF services (e.g., financial hardship, increased number of charity care patients/residents, changes in the population area's insurance or managed care status);
  - 4) The physical accessibility to necessary SMHRF services (e.g., new highways, other changes in roadways, changes in bus/train routes or changes in housing developments).
- b) The applicant shall cite the source of the information (e.g., local health department, Illinois Project for Local Assessment of Need (IPLAN) documents, Public Health Futures, local mental health plans, or other health assessment studies from governmental, academic or other independent sources).
- c) The applicant shall detail how the project will address or improve the issues listed in subsection (a), as well as the population's health status and well-being. Further, the applicant shall provide goals with quantified and measurable objectives with specific time frames that relate to achieving the stated goals.

**Section 1126.320 Alternatives to the Proposed Project – Information Requirements**

The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the SMHRF needs of the population to be served by the project.

- a) The applicant shall address alternatives to the proposed project. Examples of alternative options include:
  - 1) Proposing a project of greater or lesser scope and cost;
  - 2) Pursuing a joint venture or similar arrangement with one or more providers; and
  - 3) Developing alternative settings to meet all or a portion of the project's intended purposes.
- b) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of cost, resident/patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation.
- c) The applicant shall provide empirical evidence, including quantified outcome data that verifies improved quality of care, as available.

SUBPART D: SPECIALIZED MENTAL HEALTH REHABILITATION  
FACILITIES – REVIEW CRITERIA

**Section 1126.410 Introduction**

- a) Facilities to be licensed pursuant to SMHRA Section 1-101.5 are subject to the requirements of Section 12(17) of the Health Facilities Planning Act and HFSRB rules (77 Ill. Adm. Code 1126 and 1130).
- b) A Certificate of Need permit is required for:
  - 1) the relocation of an existing SMHRF to a planning area that does not have SMHRF services (see 20 ILCS 3960/5 and 12(17)); or
  - 2) any establishment, erection, building, alteration, reconstruction, modernizations, improvement, or extension of a SMHRF with a total estimated project cost that exceeds the capital expenditures minimum (for facilities that are licensed by statutory requirement other than the Hospital Licensing Act [210 ILCS 85] or the Nursing Home Care Act [210 ILCS 45]). The current threshold is determined under 77 Ill. Adm. Code 1130.Appendix A and is posted on HFSRB's website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)). (See 20 ILCS 3960/5.)
- c) *No new facilities licensed under SMHRA shall be established after June 16, 2014 except in connection with the relocation of an existing facility to a new location.* [20 ILCS 3960/12(17)]
- d) The process for relocating an existing SMHRF to a new, underserved location involves two actions, as follows:
  - 1) Discontinuation of a licensed SMHRF at its current location; and
  - 2) Establishment of a new SMHRF in an underserved planning area (i.e., one that does not currently have a SMHRF).

**Section 1126.420 Discontinuation of a SMHRF**

- a) Discontinuation – Information Requirements
  - 1) The applicant shall provide at least the following information:
    - A) Identification of the number of SMHRF beds that are to be discontinued;
    - B) Identification of all other clinical services that are to be discontinued;
    - C) The anticipated date of discontinuation for each identified service or for the entire facility;
    - D) The anticipated use of the physical plant and equipment after discontinuation occurs; and
    - E) The anticipated disposition and location of all medical records pertaining to the services being discontinued and the length of time the records will be retained. For applications involving discontinuation of an entire facility, certification by an authorized representative that all questionnaires and data required by HFSRB or IDPH (e.g., annual questionnaires, capital expenditures surveys, etc.) will be provided through the date of discontinuation and that the required information will be submitted no later than 60 days following the date of discontinuation.
  - 2) Reasons for Discontinuation  
The applicant shall document that the discontinuation is justified by providing data that verifies that one or more of the following factors (and other factors, as applicable) exist with respect to each service being discontinued:
    - A) Insufficient volume or demand for the service;
    - B) Lack of sufficient staff to adequately provide the service;
    - C) The facility or the service is not economically feasible, and continuation impairs the facility's financial viability;

D) The facility or the service is not in compliance with licensing or certification standards.

3) Impact on Access

The applicant shall document that the discontinuation of the entire facility will not have an adverse impact upon access to care for residents of the facility's market area. The applicant shall provide copies of impact statements received from other resources or health care facilities located within 45 minutes travel time that indicate the extent to which the applicant's workload will be absorbed without conditions, limitations or discrimination. Factors that indicate an adverse impact upon access to service for the population of the facility's market area include, but are not limited to, the following:

A) The service will no longer exist within 45 minutes travel time of the applicant facility;

B) Discontinuation of the service will result in creating or increasing a shortage of beds or services, as calculated in the Inventory of Health Care Facilities, which is described in 77 Ill. Adm. Code 1100.70 and found on HFSRB's website.

**Section 1126.430 Establishment of a SMHRF in an Underserved Planning Area**

- a) Background of the Applicant – Review Criterion  
All applicants shall comply with the requirements of this Section.
- 1) An applicant shall demonstrate that it is fit, willing and able, and *has the qualifications, background and character, to adequately provide a proper standard of SMHRF services for the community.* [20 ILCS 3960/6] In evaluating the qualifications, background and character of the applicant, HFSRB will consider whether adverse action has been taken against the applicant, or against any SMHRF owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. A SMHRF is considered "owned or operated" by every person or entity that owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by that person or entity.
  - 2) Examples of Facilities Owned or Operated by an Applicant
    - A) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ that manages the Good Care SMHRF under a management agreement. The applicant, Partnership ABC, owns or operates Good Care SMHRF.
    - B) The applicant, Healthy SMHRF, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter Services, its wholly-owned subsidiary. The applicant, Healthy SMHRF, owns and operates Healthcenter Services.
    - C) Dr. Wellcare is the applicant. His wife is the director of a corporation that owns a SMHRF. The applicant, Dr. Wellcare, owns or operates the SMHRF.
    - D) Drs. Faith, Hope and Charity own 40%, 35% and 10%, respectively, of the shares of Healthfair, Inc., a corporation, that is the applicant. Dr. Charity owns 45% and Drs. Well and Care each own 25% of the shares of Sunny Day SMHRF. The applicant, Healthfair, Inc., owns and operates Sunny Day SMHRF.
  - 3) The applicant shall submit the following information:



- A) A listing of all SMHRFs currently owned or operated by the applicant, including licensing, certification and accreditation identification numbers, as applicable;
  - B) A certified listing from the applicant of any adverse action taken against any facility owned or operated by the applicant during the three years prior to the filing of the application; and
  - C) Authorization permitting HFSRB and IDPH access to any documents necessary to verify the information submitted, including, but not limited to, official records of IDPH or other State agencies, the licensing or certification records of other states, when applicable, and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.
- 4) If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this Section. In these instances, the applicant shall attest that the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed to update and/or clarify data.
- b) Service Demand  
The applicant shall document that the number of beds to be relocated is necessary to serve the planning area population, based on the following:
- 1) Bed Need Determination
    - A) *At no time shall the total number of licensed beds under SMHRA exceed the total number of licensed beds existing on July 22, 2013. [210 ILCS 49/1-101.5]*
    - B) *No new facilities licensed under SMHRA shall be established after June 16, 2014 except in connection with the relocation of an existing facility to a new location. [20 ILCS 3960/12(17)]*
  - 2) Service to Planning Area Residents

- A) The applicant shall document that the primary purpose of the project will be to provide necessary SMHRF services to the residents of the planning area in which the proposed project will be physically located. The applicant shall document that at least 50% of the projected resident volume will be from residents of the area.
  - B) The number of beds being established is necessary to improve access for planning area residents. The applicant shall document that no SMHRFs currently exist in the proposed planning area.
- 3) Projected Referrals  
The applicant shall submit the number of projected annual referrals, as follows:
- A) An applicant proposing to establish a new SMHRF in an underserved area shall submit letters from referral sources (hospitals, physicians, social services and others) that attest to an estimated number of prospective residents whom the referral sources will refer annually to the applicant's facility within a 24-month period after project completion;
  - B) The anticipated number of referrals cannot exceed the referral sources' documented historical SMHRF caseload. Referral sources shall verify their projections and the methodology used;
  - C) Each referral letter shall contain the referral source's chief executive officer's notarized signature, the typed or printed name of the referral source, and the referral source's address; and
  - D) Verification by the referral sources that the prospective resident referrals have not been used to support another pending or approved Certificate of Need (CON) application for the subject services.
- c) Community Relationships
- 1) *An application for a new location shall not be approved unless there are adequate community services accessible to the consumers within a reasonable distance, or by use of public transportation, so as to facilitate the goal of achieving maximum individual self-care and independence. [20 ILCS 3960/12(17)]* The applicant shall document the community services

that are accessible to the SMHRF residents, including travel distances from the SMHRF and the forms of available public transportation.

2) Re-establishment of a Facility

A) *An application for the re-establishment of a SMHRF in connection with the relocation of the SMHRF shall not be granted unless the applicant has a contractual relationship with at least one hospital to provide emergency and inpatient mental health services required by SMHRF consumers and at least one community mental health agency. Under the contract, the hospital and agency shall provide:*

i) *oversight and assistance to SMHRF consumers while living in the SMHRF; and*

ii) *appropriate services, including case management, to assist them to prepare for discharge and reside stably in the community after discharge. [20 ILCS 3960/12(17)]*

B) The applicant shall submit signed and dated contractual agreements that address all of the requirements stated in subsection (c)(2)(A).

3) The applicant shall document cooperation with, and the receipt of the endorsement of, community groups in the town or municipality where the SMHRF is proposed to be located, such as, but not limited to, social, economic or governmental organizations or other concerned parties or groups. Documentation shall consist of copies of all letters of support from those organizations.

d) Unnecessary Duplication/Maldistribution

The applicant shall document that no SMHRFs currently exist in the proposed planning area, to verify that the proposed project:

1) will not result in an unnecessary duplication of SMHRF services; and

2) will not result in maldistribution of SMHRF services. (Maldistribution of services exists when an identified area within the planning area has an excess supply of SMHRFs, beds and services, as compared to other identified areas within the planning area.)

- e) **Staffing Availability**  
The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that staffing requirements of licensure, certification and applicable accrediting agencies can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.
- f) **Project Size**  
The applicant shall document that the amount of physical space proposed for the project is necessary and not excessive. The proposed gross square footage (GSF) cannot exceed the GSF standards of Appendix A, unless the additional GSF can be justified by documenting one of the following:
- 1) Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;
  - 2) The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix A;
  - 3) The project involves the conversion of existing bed space that results in excess square footage.
- g) **Zoning**  
The applicant shall document one of the following:
- 1) The property to be utilized has been zoned for the type of facility to be developed;
  - 2) Zoning approval has been received; or
  - 3) A variance in zoning for the project is to be sought.
- h) **Assurances**  
The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in Section 1127.210(c).

**Section 1126.440 Modernization**

- a) If the project involves modernization of SMHRF service, the applicant shall document that the bed areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to factors such as, but not limited to:
  - 1) High cost of maintenance;
  - 2) Noncompliance with licensing or life safety codes;
  - 3) Changes in standards of care (e.g., private versus multiple bed rooms); or
  - 4) Additional space for diagnostic or therapeutic purposes.
- b) Documentation shall include the most recent:
  - 1) IDPH and CMMS inspection reports; and
  - 2) Accrediting agency reports.
- c) Other documentation shall include the following, as applicable to the factors cited in the application:
  - 1) Copies of maintenance reports;
  - 2) Copies of citations for life safety code violations; and
  - 3) Other pertinent reports and data.
- d) Projects involving the replacement or modernization of a SMHRF shall meet or exceed the occupancy standards for the categories of service, as specified in Section 1127.210(c).

## SUBPART E: FINANCIAL AND ECONOMIC FEASIBILITY – REVIEW CRITERIA

**Section 1126.510 Estimated Total Project Cost**

- a) All applicants shall address the requirements listed in this Section, as applicable, in their permit application. The applicant shall provide project cost information for each of the following components as is applicable. When a project or any component of a project is to be accomplished by lease, donation, gift or any other means, the fair market value or dollar value that would have been required for purchase, construction or acquisition shall be included in the estimated total project cost.
- 1) Preplanning Costs – includes costs incurred prior to the submission of an application, such as development and feasibility studies, market studies, legal fees, bid solicitation, etc.;
  - 2) Site Survey and Soil Investigation Fees – includes costs for surrounding surveying of a proposed project site and resulting soil investigation fees;
  - 3) Site Preparation – includes costs of rental equipment for earthwork, concrete, lifting and hoisting, site drainage, utilities, demolition of existing structures, clearing, grading and earthwork;
  - 4) Off-site Work – includes costs of drainage, pipes, utilities, sewage, roads and walks;
  - 5) Construction and Modernization Contracts – includes expenses covered under the construction contract, including major medical and other fixed equipment, contractor's overhead and profit;
  - 6) Contingencies – means an allowance for unforeseeable events relating to construction or modernization;
  - 7) Architectural & Engineering Fees – includes fees associated with the development and implementation of drawings and design materials for a proposed project;
  - 8) Consulting and Other Fees – includes charges for the services of various types of consulting and professional expertise, including environmental impact, acoustical studies, computer software fees, etc.;

- 9) Movable Capital Equipment not in Construction Contracts – includes the cost of all movable capital equipment, including any movable major medical equipment and the cost of installation of the equipment, excluding any trade-in allowances on existing equipment;
  - 10) Bond Issuance Expense – includes all costs associated with the issuance of bonds to finance a project, including issuer's fees, bond counsel's fees, official statements (feasibility study), official statement printing, printing of bonds, survey of the collateral site, title insurance to property, auditor's fees, trustee fees, underwriters' discount and government fees (if applicable);
  - 11) Net Interest Expense During Construction – means the difference between interest earned on funds for construction and interest expense on the amount of borrowed funds;
  - 12) Other Costs to be Capitalized – includes miscellaneous fees and working capital expenses related to the project; and
  - 13) Acquisition of Buildings or Other Property – includes the cost incurred for (or the fair market value of) the acquisition of buildings or property for the project. Any acquisition that has occurred within two years prior to the date the application for permit is submitted shall be included as part of project costs.
- b) Related Cost Data
- 1) Land Acquisition Cost – The applicant shall provide the purchase price or fair market value, whichever is applicable, for the acquisition of land that is required in order to undertake the project. Acquisition of land is not a capital expenditure and is not included as part of project costs.
  - 2) Operating Start-Up Cost – The applicant shall provide a schedule of estimated non-capitalized operating start-up costs and an estimate of any initial operating deficit. Any capitalized costs that are related to the start-up costs of a facility shall be included in the total estimated project cost.
  - 3) Construction and Modernization Costs and Schedule – The applicant shall provide a construction or project completion schedule that details the anticipated dates and percent of project construction or modernization completion at the 25<sup>th</sup>, 50<sup>th</sup>, 75<sup>th</sup>, 95<sup>th</sup> and 100<sup>th</sup> percentile of project funds expended.

- 4) Debt Service Relief Fund – Applicants shall provide the amount that will be placed in a debt service reserve fund and shall also provide the terms and conditions of uses of the fund.
- c) Information Requirements for Financial Feasibility
- 1) The applicant shall provide (for the SMHRF or for the person who controls the SMHRF) documentation of a U.S. Department of Housing and Urban Development (HUD) insured mortgage commitment, historical financial statements, or evidence of financial resources to fund the project.
  - 2) Historical Financial Statements – The applicant shall provide (for the SMHRF or for the person who controls the SMHRF) the most recent three years' financial statements (if available) that include the following:
    - A) Balance sheet;
    - B) Income statement;
    - C) Changes in fund balance; and
    - D) Change in financial position.
  - 3) Projected Capital Costs – The applicant shall provide the annual projected capital costs (depreciation, amortization and interest expense) for:
    - A) The first full fiscal year after project completion; or
    - B) The first full fiscal year when the project achieves or exceeds the average occupancy rate in the market area (or target occupancy), whichever is later.
  - 4) Projected Operating Costs – The applicant shall provide projected operating costs (excluding depreciation, stated in current dollars based on the full-time equivalents, and other resource requirements) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds the average occupancy rate in the market area (or target occupancy), whichever is later, including:
    - A) Annual operating costs; and



- B) Annual operating costs change (increase or decrease) attributable to the project.
- 5) Availability of Funds – The applicant shall document that financial resources will be available and be equal to or exceed the estimated total project cost and any related cost. An applicant that has no documented HUD insured mortgage commitment shall document that the project and related costs will be:
- A) Funded in total with cash and equivalents, including investment securities, unrestricted funds, and funded depreciation as currently defined by the Medicare statute (42 USC 1395 et seq.); or
  - B) Funded in total or in part by borrowing because:
    - i) A portion or all of the cash and equivalents shall be retained in the balance sheet asset accounts in order that the current ratio does not fall below 2.0; or
    - ii) Borrowing is less costly than liquidating existing investments.
- 6) Operating Start-up Costs – The applicant shall document that financial resources will be available and be equal to or exceed any start-up expenses and any initial operating deficit.
- 7) Financial Viability – The applicant shall demonstrate the financial feasibility of the project based upon the projection of reasonable Medicare, Medicaid and private pay charges, expenses of operation, and staffing patterns relative to other facilities in the market area in which the proposed project will be located.
- 8) Previous Certificate of Need Projects – The applicant shall describe its previous record of implementing CON-approved LTC projects.
- 9) Financial and Economic Review Standard Ratios for New Facilities – The proposed project shall comply with the ratio standards cited in Appendix B. Applicants not in compliance with any of the viability ratios shall document the reasons for noncompliance.

**Section 1126.APPENDIX A Project Size Standards – Square Footage**

The following standards apply to new construction, the development of freestanding facilities, modernization, and the development of facilities in existing structures, including the use of leased space. For new construction, the standards are based on the inclusion of all building components and are expressed in building gross square feet (BGSF). For modernization projects, the standards are based upon interior build-out only, and are expressed in departmental gross square feet (DGSF). Spaces to be included in the applicant's determination of square footage shall include all functional areas minimally required for the applicable service areas, by the appropriate rules, required for IDPH licensure and/or federal certification and any additional spaces required by the applicant's operational program.

Service Areas	Square Feet/Unit
Specialized Mental Health Rehabilitation Facility	435-713 BGSF/Bed 350-570 DGSF/Bed

**Section 1126.APPENDIX B Financial and Economic Review Standards**

- a) Reasonableness of Project and Related Costs Standards
- 1) Preplanning Costs shall not exceed 1.8% of construction and modernization contracts, plus contingencies, plus equipment costs.
  - 2) Site Survey and Preparation Costs shall not exceed 5% of construction and contingency costs.
  - 3) New Construction and Modernization Costs per Gross Square Foot (GSF) SMHRF cost standards are derived from the RSMeans Building Construction Cost Data (Means) publication (RSMeans, 63 Smiths Lane, PO Box 800, Kingston MA 02364-9988, 800/334-3509; 2015, no later amendments or editions included) and will be adjusted (for inflation and location) for each project to the current year ([www.rsmeans.com](http://www.rsmeans.com)).

HFSRB NOTE: HFSRB staff will review the cost per square foot data submitted in the application to determine compliance with the latest available cost standards of the RSMeans publication.

HFSRB NOTE: Modernization includes the build out of leased space and shall include the cost of all capital improvements contained in the terms of the lease. These standards are based on 2008 data.

<b>Type of Facility</b>	<b>New Construction</b>	<b>Modernization</b>
SMHRF	Adjusted Means 3 <sup>rd</sup> Quartile	70% of Adjusted Means 3 <sup>rd</sup> Quartile

- 4) Contingencies  
Contingency costs for projects (or for components of projects) are based on a percentage of new construction or modernization costs and are based on the status of a project's architectural contract documents.

<b>Status of Project</b>	<b>New Construction</b>	<b>Modernization</b>
Contract Documents	Components	Components
Schematics	10%	10-15%
Preliminary	7%	7-10%
Final	3-5%	5-7%

5) New Construction or Modernization Fees and Architectural & Engineering (A&E) Fees

Current fees for services for projects or components of projects involving new construction or modernization (total amount of construction and contingencies, A&E fees for SMHRFs and total fees for site work) can be found in the Centralized Fee Negotiation Professional Services and Fees Handbook (available at [www.cdb.state.il.us](http://www.cdb.state.il.us) or by contacting the Capital Development Board, 401 South Spring Street, Springfield, Illinois 62706). HFSRB shall, for all calculations, consider the latest version of the handbook as released on the Capital Development Board website.

A) Projects or Components of Projects Involving New Construction

<b>Total Amount of Construction and Contingencies</b>	<b>SMHRF</b>
under \$100,000	10.59-15.89%
\$ 200,000	9.99-14.99%
\$ 300,000	9.48-14.22%
\$ 400,000	9.03-13.55%
\$ 500,000	8.65-12.99%
\$ 700,000	8.21-12.33%
\$ 900,000	7.89-11.85%
\$ 1,000,000	7.79-11.69%
\$ 1,250,000	7.62-11.44%
\$ 1,500,000	7.49-11.25%
\$ 1,750,000	7.36-11.06%
\$ 2,500,000	7.06-10.60%
\$ 3,000,000	6.89-10.35%
\$ 5,000,000	6.42-9.64%
\$ 7,000,000	6.11-9.17%
\$ 9,000,000	5.94-8.92%
\$ 10,000,000	5.90-8.86%
\$ 15,000,000	5.76-8.66%
\$ 20,000,000	5.64-8.48%
\$ 25,000,000	5.52-8.28%
\$ 30,000,000	5.37-8.07%
\$ 40,000,000	5.12-7.68%
\$ 50,000,000	4.86-7.30%
\$100,000,000	3.59-5.39%

and over

B) Projects or Components of Projects Involving Modernization

**Total Amount of  
Construction and  
Contingencies**      **A&E Fees for  
SMHRF**

under \$100,000	10.76-16.16%
\$ 200,000	10.16-15.26%
\$ 300,000	9.65-14.49%
\$ 400,000	9.20-13.80%
\$ 500,000	8.81-13.23%
\$ 700,000	8.36-12.56%
\$ 900,000	8.04-12.06%
\$ 1,000,000	7.93-11.91%
\$ 1,250,000	7.76-11.66%
\$ 1,500,000	7.63-11.45%
\$ 1,750,000	7.50-11.26%
\$ 2,000,000	7.40-11.12%
\$ 2,500,000	7.19-10.79%
\$ 3,000,000	7.02-10.54%
\$ 5,000,000	6.54-9.82%
\$ 7,000,000	6.22-9.34%
\$ 9,000,000	6.04-9.08%
\$ 10,000,000	6.00-9.02%
\$ 15,000,000	5.87-8.81%
\$ 20,000,000	5.74-8.62%
\$ 25,000,000	5.62-8.44%
\$ 30,000,000	5.48-8.22%
\$ 40,000,000	5.21-7.83%
\$ 50,000,000	4.95-7.43%
\$100,000,000	3.65-5.49%
and over	

- 6) Capital Equipment Not Included in Construction Contracts  
Standards for capital equipment not included in construction contracts are established by type of facility and are derived from the third quartile costs of previously approved projects for which data are available. The standards apply only to the following types of projects: establishment of new facilities, expansion of existing facilities (e.g., bed additions), and modernization of existing facilities involving replacement of existing

beds, relocation of existing facilities, etc. The standard in this subsection (a)(6) is calculated for the year 2013.

HFSRB NOTE: Modernization includes the build out of leased space and shall include the cost of capital equipment included in the terms of the lease.

### **SMHRFs per Bed**

\$7,524.83

- 7) **Inflation Factor**  
Costs for construction and modernization contracts and equipment are to be adjusted for projected inflation. The projected inflation rate is to be calculated to the midpoint of construction. For construction midpoint of up to 3 years, the inflation rate shall be an average of the previous 3 years annual inflation rates for construction as determined by RSMMeans. For construction midpoints beyond 3 years, the inflation rate shall be the lesser of this rate or 3% for the period of time beyond 3 years.

### b) **Financial Viability Standards**

- 1) **Current Ratio = Current Assets/Current Liabilities**

<b>Type of SMHRF</b>	<b>Current Ratio</b>
Not-For-Profit, System	1.5 or more
Not-For-Profit, Non-System	1.5 or more
For-Profit, System	1.5 or more
For-Profit, Non-System	1.5 or more
Governmental	1.5 or more

- 2) **Net Margin Percentage = (Net Income/Net Operating Revenues) X 100**

<b>Type of SMHRF</b>	<b>Net Margin</b>
Not-For-Profit, System	2.5% or more
Not-For-Profit, Non-system	2.5% or more
For-Profit, System	2.5% or more
For-Profit, Non-system	2.5% or more
Governmental	0% or more

HFSRB NOTE: Net Margin Percentage for For-Profits is before the provision for income taxes. Net income is the excess of revenues over expenses from operations, before non-recurring income or expense.

- 3) Long-Term Debt to Capitalization = (Long-Term Debt/Long-Term Debt plus Net Assets) X 100

<b>Type of SMHRF</b>	<b>Long Term Debt to Capitalization</b>
Not-For-Profit, System	80% or less
Not-For-Profit, Non-system	80% or less
For-Profit, System	50% or less
For-Profit, Non-system	50% or less
Governmental	NA

HFSRB NOTE: For SMHRFs and for-profit facilities, the applicant shall explain the rationale of the use of debt rather than the issuance of stock (if this is the case).

- 4) Projected Debt Service Coverage = Net Income plus (Depreciation plus Interest plus Amortization)/Principal Payments plus Interest Expense for the Year of Maximum Debt Service after Project Completion

<b>Type of SMHRF</b>	<b>Project Debt Service Coverage</b>
Not-For-Profit, System	1.5 or more
Not-For-Profit, Non-system	1.5 or more
For-Profit, System	1.5 or more
For-Profit, Non-system	1.5 or more
Governmental	1.5 or more

HFSRB NOTE: Net Income is the excess of revenues over expenses from operations, before non-recurring income or expense.

- 5) Days Cash on Hand = (Cash plus Investments plus Applicant Board Designated Funds)/(Operating Expense less Depreciation Expense)/365 days

<b>Type of SMHRF</b>	<b>Days Cash on Hand</b>
Not-For-Profit, System	45 or more days
Not-For-Profit, Non-system	45 or more days
For-Profit, System	45 or more days
For-Profit, Non-system	45 or more days
Governmental	45 or more days

HFSRB NOTE: The Days Cash on Hand requirement can be met by a combination of cash and investments held by the facilities or available funds from the backup line of credit.

- 6) Cushion Ratio = (Cash plus Investments plus Board Designated Funds)/(Principal Payments plus Interest Expense for the Year of Maximum Debt Service after Project Completion)

<b>Type of SMHRF</b>	<b>Cushion Ratio</b>
Not-For-Profit, System	3.0 or more
Not-For-Profit, Non-system	3.0 or more
For-Profit, System	3.0 or more
For-Profit, Non-system	3.0 or more
Governmental	NA

HFSRB NOTE: The applicant may also include in the numerator the amount of funds available from an existing or proposed backup line of credit. If the applicant includes funds available from a line of credit, it shall provide documentation regarding the terms and conditions of the line.