

**INTERAGENCY AGREEMENT
BETWEEN
THE HEALTH FACILITIES and SERVICES REVIEW BOARD
And
THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH
REGARDING
PROVISION OF OPERATIONAL SUPPORT**

WHEREAS, both the Illinois Health Facilities and Services Review Board (HFSRB) and the Illinois Department of Public Health (Department) have duties and responsibilities under the Illinois Health Facilities Planning Act (Act) (20 ILCS 3960/1 *et seq.*); and

WHEREAS, the Act provides that the Department shall provide operational support to the HFSRB, including the provision of office space, supplies, and clerical, financial, and accounting services (20 ILCS 3960/4);

WHEREAS, the Governor of the State of Illinois seeks to reduce expenditures by limiting contracts with outside counsel for the performance of legal services;

WHEREAS, the HFSRB does not currently employ administrative law judges or hearing officers;

WHEREAS, the Department does have suitable adjudicative personnel, including administrative law judges or hearing officers;

WHEREAS, the Department recognizes its statutory responsibility to provide operational support to the HFSRB;

WHEREAS, the Department, through an appropriation to the Department, has authority to expend funds from the Health Facilities Planning Fund for expenses of administering its responsibilities described in the Act, including all direct, indirect and overhead costs related to the provision of services to the HFSRB; and

WHEREAS, the HFSRB and the Department each desire to formalize their understanding of the provision of operational support to be provided by the Department to the HFSRB, including, but not limited to, the clarification of processes and procedures involved in provision of operational support as well as the processing and payment of HFSRB expenses and costs by the Department from the Illinois Health Facilities Planning Fund (Fund).

NOW, THEREFORE, pursuant to the authority provided under Illinois law, including, but not limited to, the Intergovernmental Cooperation Act (5 ILCS 220/1, *et seq.*), the parties agree as follows:

I. Responsibilities of the Parties:

A. Department Responsibilities:

1. The Department will provide the following operational support to the HFSRB: facilities, information technology, procurement, accounting and fiscal services, human resource services, operational support for core HFSRB functions as Department staffing allows and other administrative support, as necessary.
2. The Department will provide administrative law judges or hearing officers to conduct HFSRB hearings in accordance with Subpart J-Practice And Procedure in Administrative Hearings in the Health Facilities and Services Review Operational Rules (77 Ill. Adm. Code 1130), the Illinois Health Facilities Planning Act (20 ILCS 3960/1 *et seq.*), and the Administrative Procedures Act (5 ILCS 100/1 *et seq.*) as necessary.
3. The Department, through the Office of Policy, Planning and Statistics, will provide support services to the HFSRB. The number of staff designated or assigned to provide support services to the HFSRB will be determined with the consensus of both the Department and HFSRB. The support provided by the Department to the HFSRB shall be purely ministerial in nature, and all substantive decision-making authority over the functions and services provided by any Department employee shall be retained by the Department. The Department retains responsibility for the day-to-day management, supervision, and discipline of any designated or assigned employees. The HFSRB will be notified as soon as practicable when any Department staff who provides full-time support to HFSRB is being suspended, discharged, or assigned to function outside Board-allocated support activities for a period of time beyond one (1) month subject to Illinois law and administrative regulations, specifically Section 7 of the Personnel Records Review Act (820 ILCS 40/7). All designated or assigned employees working with the HFSRB shall report directly to their Department supervisor.
4. The Department shall provide the HFSRB with a periodic estimate of the anticipated allocation of costs for operational support services described in this agreement that are used by the HFSRB, and shall process payments for such costs from the Fund.
5. Any Department employee providing services to the HFSRB shall remain a Department employee and will remain and continue to be reported on the Department's headcount for budget reporting purposes.
6. All personnel documents related to Department employees shall remain the property of the Department, regardless of where those documents are located. The facility personnel file for each Department employee shall be the personnel file

maintained by the Department and no files or other documentation created by the HFSRB shall be considered to be part of the facility personnel file. The HFSRB may provide the Department with relevant information for the purpose of quarterly or annual performance evaluations or any disciplinary actions of those Department employees providing operational support to the HFSRB. The Department shall determine whether to utilize such information, consistent with the Department's personnel policies and all collective bargaining agreements.

7. The Department agrees that all documents created on behalf of the HFSRB by Department employees as well as all HFSRB records, such as application files and HFSRB correspondence, are the property of the HFSRB regardless of where those documents are located, or which party maintains the documents.
8. The Department will provide office space to HFSRB Springfield-based staff that adheres to the Department of Central Management Services (CMS) space recommendations based upon staff size and position title, as the Department deems appropriate, in consultation with the HFSRB. All decisions regarding the operation and management of any office space provided remain the responsibility and under the authority of the Department.
9. The Department will provide office space, office supplies and office equipment, including but not limited to desk, file cabinets, chairs and IT equipment, to Department employees it designates or assigns to work with the HFSRB. The Department shall use its discretion allocating such office space, supplies, equipment to the HFSRB. The HFSRB shall cooperate during any inventory or audit check by the Department as to the allocation of office space, office supplies, office equipment and any other operational support services and items.
10. The Department will provide payroll services to the HFSRB, and will take the necessary administrative steps for the payment of HFSRB's employees.
11. The Department will provide a quarterly detailed statement to the HFSRB describing all costs, revenues and balances pertaining to the Health Facilities Planning Fund. The Department shall provide the HFSRB Administrator with a quarterly accounting of the payment processed from the Fund to correspond with HFSRB meetings.
12. Upon termination of this Agreement, the Department shall be entitled to compensation upon submission of invoices and proof of claim for services provided under this Agreement and any non-cancelable obligations incurred by the Department up to and including the date of terminations. A non-cancelable obligation is an obligation incurred by the Department on HFSRB's behalf which cannot be reimbursed, refunded or cancelled in accordance with the vendor agreement or terms.

13. The Department's Division of Governmental Affairs may assist the HFSRB in the monitoring of any pertinent proposed substantive and appropriation related legislation which may affect the HFSRB.

B. Board Responsibilities:

1. All HFSRB expenses and costs will be processed for payment by the Department on behalf of the HFSRB and will be paid from the Fund.
2. The HFSRB will designate signature authority to the Department over the monies designated under the following appropriation code of HFSRB: 238-48220-1900-0000. Under this signature authority, the Department may enter into contracts, process vouchers and spend monies on behalf of the HFSRB, in amounts not to exceed \$10,000. However, the \$10,000 signature authority limitation does not apply to the semi-monthly payroll vouchers for payroll expenses related to HFSRB staff.
3. The HFSRB grants the Department access to such documents, records, and files necessary to carry out the shared operational and administrative services under this Agreement.
4. The HFSRB Chairman or the Administrator hereby appoints the Department's Chief Administrative Law Judge and his designee(s) to conduct administrative hearings as necessary (20 ILCS 3960/10). When an administrative hearing is requested, the HFSRB will submit a letter to the Department's Chief Administrative Law Judge, copying the Department's General Counsel, requesting the appointment of an Administrative Law Judge, summarizing the case, and indicating the location of the facility at issue.
5. The HFSRB shall be responsible for all ancillary costs associated with its administrative hearings conducted by Department personnel, including, but not limited to, court reporting and transcription services. The HFSRB shall not be responsible for payment of the Department's Administrative Hearings Unit staff salaries.
6. It is understood and agreed to that the terms of any current union contract, any other collective bargaining agreement, or the State of Illinois Personnel Code and its Rules, applicable to any Department employee providing services to the HFSRB shall remain in force and shall be respected in its entirety by the HFSRB.
7. The HFSRB and its employees will direct any and all inquiries regarding the Department's operational support activities provided to the HFSRB to the Deputy Director of the Department's Office of Policy, Planning and Statistics, or his designee.

8. If available, the Department will provide office supplies and office equipment, including, but not limited to, desk, files cabinets, chairs and IT equipment to HFSRB employees housed in Department office space. Except for items and space previously purchased by the HFSRB, the HFSRB shall reimburse the Department for all costs associated with office supplies, equipment and space. All office supplies, equipment and space not previously purchased with HFSRB funds shall be returned to the Department unless written agreements regarding purchase or rental of the same have been agreed to between the Department and the HFSRB.
9. In the event of termination of this Agreement, the HFSRB shall be responsible for reimbursing the Department upon submission of any invoices, and proof of claim for services provided under this Agreement and any non-cancelable obligations incurred up to and including the date of termination.
10. The HFSRB is responsible for providing all services it needs related to freedom of information processing, public information, governmental/legislative affairs, legal services and legal database management. When requested by the HFSRB, and if not otherwise prohibited by existing law, the Department may assist in these areas at its discretion, and on a case-by-case basis.
11. The HFSRB shall provide the Department with a copy of its most recent employee handbook and personnel policies for reference.

II. Continued Communication and Cooperation

1. While this Agreement details some of the operational support to be provided by the Department to the HFSRB, the parties recognize that additional details, procedures and processes may need to be developed to fully accomplish the operational support mandated by the Illinois Health Facilities Planning Act. The parties pledge their continued communication and cooperation, such approach being essential to the objectives of the Act. Each party will appoint a liaison to discuss any problems or issues that may arise during the implementation and administration of this Agreement or to develop any additional procedures and processes, as they deem necessary. These representatives shall report any unresolved issues to the HFSRB Chairperson and Department Director as they deem appropriate.
2. The parties will consult with one another, at a minimum, on or about June 15, 2019.

III. Confidentiality:

1. Each party, including its employees, agents and subcontractors, to this Agreement may have or gain access to confidential data or information owned or maintained by the other party in the course of carrying out its responsibilities under this

Agreement. The receiving party shall presume all information received or to which it gains access pursuant to this Agreement is confidential unless otherwise designated by the disclosing party. No confidential data collected, maintained, or used in the course of performance of the Agreement shall be disseminated except as authorized by law and with the written consent of the disclosing party, either during the period of this Agreement or thereafter. The foregoing obligations shall not apply to confidential data or information lawfully in the receiving party's possession prior to its acquisition from the disclosing party; that was received in good faith from a third party not subject to any confidentiality obligation to the disclosing party; that is now or later becomes publicly known through no breach of confidentiality obligation by the receiving party; or that is independently developed by the receiving party without the use or benefit of the disclosing party's confidential information.

2. If a party receives a request from a third party for confidential information furnished by the other party, or if either party is served with a subpoena, court order, or other process requiring production of confidential information or testimony related thereto, the party shall:
 - a. Immediately notify the other party that production is being sought, and afford the other party the opportunity to take whatever action it deems appropriate to protect the confidential nature and/or privileged nature of the confidential information;
 - b. Cooperate fully in preserving and protecting the full scope of all privileges and claims of confidentiality that may apply to such confidential information; and
 - c. Notify the third party seeking production of the confidential information that the information belongs to the other party and that requests for the release of such information must be made directly with the other party, pursuant to any applicable law or administrative regulation.

IV. Notices:

All written notices required under this Agreement will be deemed given three (3) business days after being delivered or deposited in the U.S. mail, postage prepaid and addressed to the addresses set forth below (or to such address as the parties may designate in writing), or upon facsimile or hand delivery if receipt is confirmed.

HFSRB

Courtney Avery
Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson, 2nd Floor
Springfield, Illinois 62761

Department: Justin DeWitt, P.E., LEED AP
Chief of Staff
Illinois Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

V. Term:

This Agreement shall be effective from July 1, 2019 until June 30, 2020. This Agreement may be renewed as necessary, or annually upon mutual written consent of the parties. Either party may terminate this Agreement upon sixty (60) days written notice, provided, however, that such termination shall not affect the continuing rights and obligation of either party with respect to confidential information shared pursuant to this Agreement.

VI. Amendments:

This Agreement may be amended upon mutual agreement of both parties. Any amendments shall be subject to interagency discussions and concurrence in writing, thereafter, to be reduced to writing and incorporating this Agreement by reference.

VII. Preservation of Existing Statutory Authority and Obligations:

Nothing in this Agreement restricts, enlarges, or otherwise nullifies the respective jurisdiction of the parties. Neither this Agreement, nor its termination, shall affect the rights and obligations of either party under applicable statutes or regulations, nor be deemed an interpretation of such statutes or regulations.

VIII. Entire Agreement:

The HFSRB and the Department understand and agree that this agreement constitutes the entire agreement between them and that no promises, terms, or conditions not recited or incorporated within this agreement, including prior or oral discussions not referenced in this agreement, shall be binding upon either the HFSRB or the Department. This agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all counterparts so executed shall constitute one agreement binding on the parties, notwithstanding that all of the parties are not signatory to the same counterpart.

INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, each party has hereunto caused this Agreement to be executed by its duly authorized representative:

Illinois Health Facilities and Services Review Board:

Courtney Avery
HFSRB Representative

June 6, 2019
Date

Courtney Avery
Print Name

Administrator
Title

Illinois Department of Public Health:

Ngozi Ezike MD
Ngozi Ezike, M.D.
Director

6/11/19
Date