



Rep. Sidney H. Mathias

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LRB094 03755 DRJ 45000 a

1 AMENDMENT TO HOUSE BILL 44

2 AMENDMENT NO. _____. Amend House Bill 44 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by adding
5 Section 5.650 as follows:

6 (30 ILCS 105/5.650 new)

7 Sec. 5.650. The Home Care Services Agency Licensure Fund.

8 Section 10. The Home Health Agency Licensing Act is amended
9 by changing the title of the Act and Sections 1, 1.01, 2, 4, 7,
10 8, 9.01, 9.02, 9.03, 9.04, 10.01, 12, and 14 and by adding
11 Sections 2.03a, 2.08, 2.09, 2.10, 2.11, 2.12, 3.3, 3.7, 6.3,
12 6.7, and 10.05 as follows:

13 (210 ILCS 55/Act title)

14 An Act relating to the regulation of home health, home
15 services, and home nursing agencies.

16 (210 ILCS 55/1) (from Ch. 111 1/2, par. 2801)

17 Sec. 1. This Act shall be known and may be cited as the
18 Home Health, Home Services, and Home Nursing Agency Licensing
19 Act.

20 (Source: P.A. 80-804.)

1 (210 ILCS 55/1.01) (from Ch. 111 1/2, par. 2801.01)

2 Sec. 1.01. It is declared to be the public policy that the
3 State has a legitimate interest in assuring that all home
4 health services, home nursing services, and in-home support
5 services provided to a person at his residence are performed
6 under circumstances that insure consumer protection and
7 quality care. Therefore, the purpose of this Act is to provide
8 for the better protection of the public health, well-being, and
9 safety through the development, establishment, and enforcement
10 of standards for services, as well as standards for the care of
11 individuals receiving home health services and home nursing
12 services, and in the light of advancing knowledge, will provide
13 a viable alternative to the premature institutionalization of
14 these individuals.

15 It is further declared that health care and support
16 services are provided in the consumer's home by 3 basic types
17 of agencies: home health care, home nursing care, and home
18 support services. It is further understood that each type of
19 agency delivers a different type and scope of care or service.
20 Further, individuals providing the care or service require
21 different levels of education, training, and supervision.
22 Therefore, different types of regulatory oversight are
23 required.

24 (Source: P.A. 81-490.)

25 (210 ILCS 55/2) (from Ch. 111 1/2, par. 2802)

26 Sec. 2. As used in this Act, unless the context requires
27 otherwise, the terms defined in the following Sections
28 proceeding Section 3 ~~2.01 through 2.07~~ have the meanings
29 ascribed to them in those Sections.

30 (Source: P.A. 80-804.)

31 (210 ILCS 55/2.03a new)

32 Sec. 2.03a. "Agency" means a home health agency, home

1 nursing agency, or home services agency unless specifically
2 stated otherwise.

3 (210 ILCS 55/2.08 new)

4 Sec. 2.08. "Home services agency" means an agency that
5 provides services directly, or acts as a placement agency, for
6 the purpose of placing individuals as workers providing home
7 services for consumers in their personal residences. "Home
8 services agency" does not include agencies licensed under the
9 Nurse Agency Licensing Act, the Nursing Home Care Act, or the
10 Assisted Living and Shared Housing Act and does not include an
11 agency that limits its business exclusively to providing
12 housecleaning services. Programs providing services
13 exclusively through the Community Care Program of the Illinois
14 Department on Aging or the Department of Human Services Office
15 of Rehabilitation Services are not considered to be a home
16 services agency under this Act.

17 (210 ILCS 55/2.09 new)

18 Sec. 2.09. "Home services" or "in-home services" means
19 assistance with activities of daily living, housekeeping,
20 personal laundry, and companionship provided to an individual
21 in his or her personal residence, which are intended to enable
22 that individual to remain safely and comfortably in his or her
23 own personal residence. "Home services" or "in-home services"
24 does not include services that would be required to be
25 performed by an individual licensed under the Nursing and
26 Advanced Practice Nursing Act.

27 (210 ILCS 55/2.10 new)

28 Sec. 2.10. "Home services worker" or "in-home services
29 worker" means an individual who provides home services to a
30 consumer in the consumer's personal residence.

1 (210 ILCS 55/2.11 new)

2 Sec. 2.11. "Home nursing agency" means an agency that
3 provides services directly, or acts as a placement agency, in
4 order to deliver skilled nursing services to persons in their
5 personal residences. A home nursing agency provides services
6 that would require a licensed nurse to perform. A home nursing
7 agency does not qualify for licensure as a home health agency
8 under this Act. "Home nursing agency" does not include an
9 individually licensed nurse acting as a private contractor or a
10 person that provides or procures temporary employment in health
11 care facilities, as defined in the Nurse Agency Licensing Act.

12 (210 ILCS 55/2.12 new)

13 Sec. 2.12. "Placement agency" means any person engaged for
14 gain or profit in the business of securing or attempting to
15 secure (i) work for hire for persons seeking work or (ii)
16 workers for employers. The term includes a private employment
17 agency and any other entity that places a worker for private
18 hire by a consumer in that consumer's residence for purposes of
19 providing home services. The term does not include a person
20 that provides or procures temporary employment in health care
21 facilities, as defined in the Nurse Agency Licensing Act.

22 (210 ILCS 55/3.3 new)

23 Sec. 3.3. Home services agency; license required. On and
24 after September 1, 2008, no person shall open, manage, conduct,
25 or maintain a home services agency, or advertise himself or
26 herself as a home services agency or as offering services that
27 would be included in the definition of home services or a home
28 services agency, without a license issued by the Department.
29 The Department shall adopt rules as necessary to protect the
30 health, safety, and well-being of clients through licensure of
31 home services agencies. Rules adopted by the Department may
32 include a system or schedule for graduated licensing of

1 agencies under this Act that allows a home services agency to
2 be licensed in conjunction with the licensure of a home health
3 agency with continued compliance at the highest level of
4 licensure and payment of the higher of the 2 licensure fees to
5 the Department. Any licensure fee collected for such a
6 graduated license shall be deposited into the Home Care
7 Services Agency Licensure Fund.

8 (210 ILCS 55/3.7 new)

9 Sec. 3.7. Home nursing agency; license required. On and
10 after September 1, 2008, no person shall open, manage, conduct,
11 or maintain a home nursing agency, or advertise himself or
12 herself as a home nursing agency or as offering services that
13 would be included in the definition of a home nursing agency,
14 without a license issued by the Department. The Department
15 shall adopt rules as necessary to protect the health, safety,
16 and well-being of clients through licensure of home nursing
17 agencies. Rules adopted by the Department may include a system
18 or schedule for graduated licensing of agencies under this Act
19 that allows a home nursing agency to be licensed in conjunction
20 with the licensure of a home health agency with continued
21 compliance at the highest level of licensure and payment of the
22 higher of the 2 licensure fees to the Department. Any licensure
23 fee collected for such a graduated license shall be deposited
24 into the Home Care Services Agency Licensure Fund.

25 (210 ILCS 55/4) (from Ch. 111 1/2, par. 2804)

26 Sec. 4. Types of licenses.

27 (a) If an applicant for licensure has not been previously
28 licensed, or if the home health agency, home services agency,
29 or home nursing agency is not in operation at the time
30 application is made, the Department may issue a provisional
31 license. A provisional license shall be valid for a period of
32 120 days unless sooner suspended or revoked pursuant to Section

1 9 of this Act. Within 30 days prior to the termination of a
2 provisional license, the Department shall inspect the ~~home~~
3 ~~health~~ agency and, if the applicant substantially meets the
4 requirements for licensure, it shall issue a license under this
5 Section. If the Department finds that a holder of a provisional
6 license does not substantially meet the requirements for
7 licensure, but has made significant progress toward meeting
8 those requirements, the Director may renew the provisional
9 license once for a period not to exceed 120 days from the
10 expiration date of the initial provisional license.

11 (b) (1) The Director may also issue a provisional license to
12 any licensed ~~home health~~ agency which does not substantially
13 comply with the provisions of this Act and the rules
14 promulgated hereunder, provided he finds that the health, ~~and~~
15 safety, and well-being of the clients ~~patients~~ of the ~~home~~
16 ~~health~~ agency will be protected during the period for which
17 such provisional license is issued. The term of such
18 provisional license shall not exceed 120 days.

19 (2) The Director shall advise the licensee of the
20 conditions under which such provisional license is issued,
21 including the manner in which the licensee fails to comply with
22 the provisions of the Act or rules, and the time within which
23 the corrections necessary for the ~~home health~~ agency to
24 substantially comply with the Act and rules shall be completed.

25 (3) The Director, at his discretion, may extend the term of
26 such provisional license for an additional 120 days, if he
27 finds that the ~~home health~~ agency has made substantial progress
28 toward correcting the violations and bringing the ~~home health~~
29 agency into full compliance with this Act and the rules
30 promulgated hereunder.

31 (c) An annual license shall be issued to any person
32 conducting or maintaining a home health agency upon receipt of
33 an application and payment of the licensure fee, and when the
34 other requirements of this Act, and the standards, rules and

1 regulations promulgated hereunder, are met. The fee for each
2 license or any renewal shall be \$25.

3 (d) As provided in rules adopted by the Department under
4 Sections 3.3 and 3.7 of this Act, a licensed home health agency
5 that maintains a home services agency or home nursing agency
6 may opt to maintain licensure under a graduated system. If that
7 option is chosen, the agency shall pay the higher of the
8 licensure fees for the overall license. Fees collected by the
9 Department under such a graduated licensure system shall be
10 deposited into the Home Care Services Agency Licensure Fund.

11 (Source: P.A. 86-130.)

12 (210 ILCS 55/6.3 new)

13 Sec. 6.3. Home services agencies; standards; fees.

14 (a) Before January 1, 2008, the Department shall adopt
15 standards for the licensure and operation of home services
16 agencies operated in this State. The structure of the standards
17 shall be based on the concept of home services and its focus on
18 assistance with activities of daily living, housekeeping,
19 personal laundry, and companionship being provided to an
20 individual intended to enable that individual to remain safely
21 and comfortably in his or her own personal residence. As home
22 services do not include services that would be required to be
23 performed by an individual licensed under the Nursing and
24 Advanced Practice Nursing Act, the standards shall be developed
25 from a similar concept. After consideration and
26 recommendations by the Home Health and Home Services Advisory
27 Committee, the Department shall adopt such rules and
28 regulations as are necessary for the proper regulation of home
29 services agencies. Requirements for licensure as a home
30 services agency shall include the following:

31 (1) Compliance with the requirements of the Health Care
32 Worker Background Check Act.

33 (2) Notification, in a form and manner established by

1 the Department by rule, to home services workers and
2 consumers as to the party or parties responsible under
3 State and federal laws for payment of employment taxes,
4 social security taxes, and workers' compensation,
5 liability, the day-to-day supervision of workers, and the
6 hiring, firing, and discipline of workers with the
7 placement arrangement for home services.

8 (3) Compliance with rules, as adopted by the
9 Department, in regard to (i) reporting by the licensee of
10 any known or suspected incidences of abuse, neglect, or
11 financial exploitation of an eligible adult, as defined in
12 the Elder Abuse and Neglect Act, by a home services worker
13 employed by or placed by the licensee or (ii) reports to a
14 law enforcement agency in connection with any other
15 individual protected under the laws of the State of
16 Illinois.

17 (4) Compliance with rules, as adopted by the
18 Department, addressing the health, safety, and well-being
19 of clients receiving home services.

20 (b) The Department may establish fees for home services
21 agency licensure in rules in a manner that will make the
22 program self-supporting. The amount of the licensure fees shall
23 be based on the funding required for operation of the licensure
24 program.

25 (210 ILCS 55/6.7 new)

26 Sec. 6.7. Home nursing agencies; standards; fees.

27 (a) Before January 1, 2008, the Department shall adopt
28 standards for the licensure and operation of home nursing
29 agencies operated in this State. After consideration and
30 recommendations by the Home Health and Home Services Advisory
31 Committee, the Department shall adopt such rules as are
32 necessary for the proper regulation of home nursing agencies.
33 Requirements for licensure as a home nursing agency shall

1 include the following:

2 (1) Compliance with the requirements of the Health Care
3 Worker Background Check Act.

4 (2) Notification, in a form and manner established by
5 the Department by rule, to home nursing agency workers and
6 consumers as to the party or parties responsible under
7 State and federal laws for payment of employment taxes,
8 social security taxes, and workers' compensation,
9 liability, the day-to-day supervision of workers, and the
10 hiring, firing, and discipline of workers with the
11 placement arrangement for home nursing services.

12 (3) Compliance with rules, as adopted by the
13 Department, in regard to (i) reporting by the licensee of
14 any known or suspected incidences of abuse, neglect, or
15 financial exploitation of an eligible adult, as defined in
16 the Elder Abuse and Neglect Act, by a home nursing care
17 worker employed by or placed by the licensee or (ii)
18 reports to a law enforcement agency in connection with for
19 any other individual protected under the laws of the State
20 of Illinois.

21 (4) Compliance with rules, as adopted by the
22 Department, addressing the health, safety, and well-being
23 of clients receiving home nursing services.

24 (b) The Department may establish fees for home nursing
25 agency licensure in rules in a manner that will make the
26 program self-supporting. The amount of the licensure fees shall
27 be based on the funding required for the operation of the
28 licensure program.

29 (210 ILCS 55/7) (from Ch. 111 1/2, par. 2807)

30 Sec. 7. (a) The Director shall appoint a Home Health and
31 Home Services Advisory Committee composed of 15 ~~11~~ persons to
32 advise and consult with the Director in the administration of
33 this Act. Five of the appointed members shall represent the

1 home health agency profession. Four of the appointed members
2 shall represent the home services agency profession. ~~Of these~~
3 ~~5, one shall represent voluntary home health agencies, one~~
4 ~~shall represent for profit home health agencies, one shall~~
5 ~~represent private not for profit home health agencies, one~~
6 ~~shall represent institution based home health agencies, and~~
7 ~~one shall represent home health agencies operated by local~~
8 ~~health departments.~~ Four of the appointed members shall
9 represent the general public in the following categories: one
10 individual who is a consumer of home health services or a
11 family member of a consumer of home health services; one
12 individual who is a consumer of home services or a family
13 member of a consumer of home services; one individual who is a
14 home services worker; and one individual who is a
15 representative of an organization that advocates for
16 consumers. One member shall be a practicing Illinois licensed
17 physician; and one member shall be an Illinois registered
18 professional nurse with home health agency experience. The
19 recommendations of professional, ~~and~~ home health industry, and
20 home services industry organizations may be considered in
21 selecting individuals for appointment to the Home Health and
22 Home Services Advisory Committee.

23 (b) Each member shall hold office for a term of 3 years,
24 except that any member appointed to fill a vacancy occurring
25 prior to the expiration of the term for which his predecessor
26 was appointed shall be appointed for the remainder of such term
27 and the terms of office of the members first taking office
28 shall expire, as designated at the time of appointment, one at
29 the end of the first year, one at the end of the second year,
30 and 3 at the end of the third year. The term of office of each
31 of the original appointees shall commence on January 1, 1978.

32 (c) The term of office of each of the 6 members appointed
33 to the Committee as a result of this amendatory Act of 1989
34 shall commence on January 1, 1990. The terms of office of the 6

1 members appointed as a result of this amendatory Act of 1989
2 shall expire, as designated at the time of appointment, 2 at
3 the end of the first year, 2 at the end of the second year, and
4 two at the end of the third year.

5 (d) The Committee shall meet as frequently as the Director
6 deems necessary. Committee members, while serving on business
7 of the Committee, shall receive actual and necessary travel and
8 subsistence expenses while so serving away from their places of
9 residence.

10 (e) The Committee shall provide input and recommendations
11 to the Department on the development of rules for the licensure
12 of home services agencies and home nursing agencies operating
13 in this State. On or before July 1, 2007, the Committee shall
14 issue an interim report to the General Assembly on the status
15 of development and implementation of the rules for home
16 services agency and home nursing agency licensure.

17 (Source: P.A. 86-130.)

18 (210 ILCS 55/8) (from Ch. 111 1/2, par. 2808)

19 Sec. 8. An application for a license may be denied for any
20 of the following reasons:

21 (a) failure to meet the minimum standards prescribed by the
22 Department pursuant to Section 6;

23 (b) satisfactory evidence that the moral character of the
24 applicant or supervisor of the agency is not reputable. In
25 determining moral character, the Department may take into
26 consideration any convictions of the applicant or supervisor
27 but such convictions shall not operate as a bar to licensing;

28 (c) lack of personnel qualified by training and experience
29 to properly perform the function of a home health agency;

30 (d) insufficient financial or other resources to operate
31 and conduct a home health, home services, or home nursing
32 agency in accordance with the requirements of this Act and the
33 minimum standards, rules and regulations promulgated

1 thereunder.

2 (Source: P.A. 81-149.)

3 (210 ILCS 55/9.01) (from Ch. 111 1/2, par. 2809.01)

4 Sec. 9.01. The Department may conduct any such
5 investigations and inspections as it deems necessary to assess
6 compliance with this Act and the rules and regulations
7 promulgated pursuant thereto. Investigations and inspections
8 may include the direct observation of patient care or the
9 provision of home services in the home, if consent is given by
10 the consumer or patient under treatment. Agencies ~~Home health~~
11 ~~agencies~~ licensed under this Act shall make available to the
12 Department all books, records, policies and procedures, or any
13 other materials requested during the course of an investigation
14 or inspection. Refusal to make such materials available to the
15 Department shall be grounds for license revocation, or the
16 imposition of any other penalty provided in this Act.

17 (Source: P.A. 86-130.)

18 (210 ILCS 55/9.02) (from Ch. 111 1/2, par. 2809.02)

19 Sec. 9.02. When the Department determines that an agency ~~a~~
20 ~~home health agency~~ is in violation of this Act or any rule
21 promulgated hereunder, a notice of violation shall be served
22 upon the licensee. Each notice of violation shall be prepared
23 in writing and shall specify the nature of the violation and
24 the statutory provision or rule alleged to have been violated.
25 The notice shall inform the licensee of any action the
26 Department may take under this Act, including the requirement
27 of an ~~a home health~~ agency plan of correction under Section
28 9.03, assessment of a penalty under Section 9.04, or licensure
29 action under Section 9. The Director or his designee shall also
30 inform the licensee of rights to a hearing under Section 10.

31 (Source: P.A. 86-130.)

1 (210 ILCS 55/9.03) (from Ch. 111 1/2, par. 2809.03)

2 Sec. 9.03. (a) Each ~~home health~~ agency served with a notice
3 of violation under Section 9.02 of this Act shall file with the
4 Department a written plan of correction within 10 days of
5 receipt of the notice. The plan of correction is subject to
6 approval of the Department. The plan of correction shall state
7 with particularity the method by which the ~~home health~~ agency
8 intends to correct each violation and shall contain a stated
9 date by which each violation shall be corrected.

10 (b) If the Department rejects a plan of correction, it
11 shall send notice of the rejection and the reason for the
12 rejection to the licensee. The ~~home health~~ agency shall have 10
13 days after receipt of the notice of rejection in which to
14 submit a modified plan. If the modified plan is not submitted
15 on time, or if the modified plan is rejected, the ~~home health~~
16 agency shall follow a plan of correction imposed by the
17 Department.

18 (c) If an ~~a home health~~ agency desires to contest any
19 Department action under this Section, it shall send a written
20 request for a hearing under Section 10 to the Department within
21 10 days of receipt of notice of the contested action. The
22 Department shall commence the hearing as provided under Section
23 10. Whenever possible, all action of the Department under this
24 Section arising out of a violation shall be contested and
25 determined at a single hearing. Issues decided at a hearing may
26 not be reheard at subsequent hearings under this Section.

27 (Source: P.A. 86-130.)

28 (210 ILCS 55/9.04) (from Ch. 111 1/2, par. 2809.04)

29 Sec. 9.04. (a) The licensee of an ~~a home health~~ agency
30 operating in violation of this Act or any rule adopted
31 hereunder may be subject to the penalties or fines levied by
32 the Department as specified in this Section.

33 (b) When the Director determines that an ~~a home health~~

1 agency has failed to comply with this Act or any rule adopted
2 hereunder, the Department may issue a notice of fine assessment
3 which shall specify the violations for which the fine is
4 levied. The Department may impose a fine of \$100 per day
5 commencing on the date the violation was identified and ending
6 on the date the violation is corrected, or action is taken to
7 suspend, revoke, or deny renewal of the license, whichever
8 comes first.

9 (c) In determining whether a fine is to be imposed, the
10 Director shall consider the following factors:

11 (1) the gravity of the violation, including the probability
12 that death or serious physical or mental harm to a patient or
13 consumer will result or has resulted, the severity of the
14 actual or potential harm, and the extent to which the
15 provisions of the applicable statutes or regulations were
16 violated;

17 (2) the reasonable diligence exercised by the licensee and
18 efforts to correct violations;

19 (3) any previous violations committed by the licensee; and

20 (4) the financial benefit to the ~~home health~~ agency of
21 committing or continuing the violation.

22 (Source: P.A. 86-130.)

23 (210 ILCS 55/10.01) (from Ch. 111 1/2, par. 2810.01)

24 Sec. 10.01. All fines shall be paid to the Department
25 within 10 days of the notice of assessment or, if the fine is
26 contested under Section 10 of this Act, within 10 days of the
27 receipt of the final decision, unless the decision is appealed
28 and the order is stayed by court order under Section 12 of this
29 Act. A fine assessed under this Act shall be collected by the
30 Department. If the licensee against whom the fine has been
31 assessed does not comply with a written demand for payment
32 within 30 days, the Director shall issue an order to do any of
33 the following:

1 (a) certify to the Comptroller, as provided by rule of the
2 Department of delinquent fines due and owing from the licensee
3 or any amounts due and owing as a result of a civil action
4 pursuant to subsection (d) of this Section. The purpose of
5 certification shall be to intercept State income tax refunds
6 and other payments due such licensee in order to satisfy, in
7 whole or in part, any delinquent fines or amounts recoverable
8 in a civil action brought pursuant to subsection (d) of this
9 Section. The rule shall provide for notice to any such licensee
10 or person affected. Any final administrative decision rendered
11 by the Department with respect to any certification made
12 pursuant to this subsection (a) shall be reviewed only under
13 and in accordance with the Administrative Review Law.

14 (b) certify to the Social Security Administration, as
15 provided by rule of the Department, of delinquent fines due and
16 owing from the licensee or any amounts due and owing as a
17 result of a civil action pursuant to subsection (d) of this
18 Section. The purpose of certification shall be to request the
19 Social Security Administration to intercept and remit to the
20 Department Medicaid reimbursement payments due such licensee
21 in order to satisfy, in whole or in part, any delinquent fines
22 or amounts recoverable in a civil action brought pursuant to
23 subsection (d) of this Section. The rules shall provide for
24 notice to any such licensee or person affected. Any final
25 administrative decision rendered by the Department with
26 respect to any certification made pursuant to this subsection
27 (b) shall be reviewed only under and in accordance with the
28 Administrative Review Law.

29 (c) add the amount of the penalty to the ~~home health~~
30 agency's licensing fee; if the licensee refuses to make the
31 payment at the time of application for renewal of its license,
32 the license shall not be renewed; or

33 (d) bring an action in circuit court to recover the amount
34 of the penalty.

1 (Source: P.A. 86-130.)

2 (210 ILCS 55/10.05 new)

3 Sec. 10.05. Home Care Services Agency Licensure Fund. The
4 Department shall deposit all fees and fines collected in
5 relation to the licensure of home services agencies and home
6 nursing agencies into the Home Care Services Agency Licensure
7 Fund, a special fund created in the State Treasury, for the
8 purpose of providing funding for the administration of the
9 program of home services agency and home nursing agency
10 licensure.

11 (210 ILCS 55/12) (from Ch. 111 1/2, par. 2812)

12 Sec. 12. Whenever the Department refuses to grant, or
13 revokes or suspends a license to open, conduct, operate, or
14 maintain an a-home health agency, the applicant or licensee may
15 have such decision judicially reviewed. The provisions of the
16 Administrative Review Law, as heretofore or hereafter amended,
17 and the rules adopted pursuant thereto shall apply to and
18 govern all proceedings for the judicial review of final
19 administrative decisions of the Department hereunder. The term
20 "administrative decisions" is defined as in Section 3-101 of
21 the Code of Civil Procedure.

22 (Source: P.A. 82-783.)

23 (210 ILCS 55/14) (from Ch. 111 1/2, par. 2814)

24 Sec. 14. The operation or maintenance of an a-home health
25 agency in violation of this Act or of the Rules and Regulations
26 promulgated by the Department is declared a public nuisance
27 inimical to the public welfare. The Director of the Department
28 in the name of the People of the State, through the Attorney
29 General or the State's Attorney of the county in which the
30 violation occurs, may in addition to other remedies herein
31 provided, bring action for an injunction to restrain such

1 violation or to enjoin the future operation or maintenance of
2 any such ~~home health~~ agency.

3 (Source: P.A. 81-490.)

4 Section 15. The End Stage Renal Disease Facility Act is
5 amended by changing Section 15 as follows:

6 (210 ILCS 62/15)

7 Sec. 15. Exemptions from licensing requirement. The
8 following facilities are not required to be licensed under this
9 Act:

10 (1) a home health agency licensed under the Home
11 Health, Home Services, and Home Nursing Agency Licensing
12 Act;

13 (2) a hospital licensed under the Hospital Licensing
14 Act or the University of Illinois Hospital Act; and

15 (3) the office of a physician.

16 (Source: P.A. 92-794, eff. 7-1-03.)

17 Section 20. The Health Care Worker Background Check Act is
18 amended by changing Section 15 as follows:

19 (225 ILCS 46/15)

20 Sec. 15. Definitions. For the purposes of this Act, the
21 following definitions apply:

22 "Applicant" means an individual seeking employment with a
23 health care employer who has received a bona fide conditional
24 offer of employment.

25 "Conditional offer of employment" means a bona fide offer
26 of employment by a health care employer to an applicant, which
27 is contingent upon the receipt of a report from the Department
28 of State Police indicating that the applicant does not have a
29 record of conviction of any of the criminal offenses enumerated
30 in Section 25.

1 "Direct care" means the provision of nursing care or
2 assistance with feeding, dressing, movement, bathing,
3 toileting, or other personal needs, including home services as
4 defined in the Home Health, Home Services, and Home Nursing
5 Agency Licensing Act. The entity responsible for inspecting and
6 licensing, certifying, or registering the health care employer
7 may, by administrative rule, prescribe guidelines for
8 interpreting this definition with regard to the health care
9 employers that it licenses.

10 "Health care employer" means:

11 (1) the owner or licensee of any of the following:

12 (i) a community living facility, as defined in the
13 Community Living Facilities Act;

14 (ii) a life care facility, as defined in the Life
15 Care Facilities Act;

16 (iii) a long-term care facility, as defined in the
17 Nursing Home Care Act;

18 (iv) a home health agency, home services agency, or
19 home nursing agency as defined in the Home Health, Home
20 Services, and Home Nursing Agency Licensing Act;

21 (v) a full hospice, as defined in the Hospice
22 Program Licensing Act;

23 (vi) a hospital, as defined in the Hospital
24 Licensing Act;

25 (vii) a community residential alternative, as
26 defined in the Community Residential Alternatives
27 Licensing Act;

28 (viii) a nurse agency, as defined in the Nurse
29 Agency Licensing Act;

30 (ix) a respite care provider, as defined in the
31 Respite Program Act;

32 (ix-a) an establishment licensed under the
33 Assisted Living and Shared Housing Act;

34 (x) a supportive living program, as defined in the

1 Illinois Public Aid Code;

2 (xi) early childhood intervention programs as
3 described in 59 Ill. Adm. Code 121;

4 (xii) the University of Illinois Hospital,
5 Chicago;

6 (xiii) programs funded by the Department on Aging
7 through the Community Care Program;

8 (xiv) programs certified to participate in the
9 Supportive Living Program authorized pursuant to
10 Section 5-5.01a of the Illinois Public Aid Code;

11 (xv) programs listed by the Emergency Medical
12 Services (EMS) Systems Act as Freestanding Emergency
13 Centers;

14 (xvi) locations licensed under the Alternative
15 Health Care Delivery Act;

16 (2) a day training program certified by the Department
17 of Human Services;

18 (3) a community integrated living arrangement operated
19 by a community mental health and developmental service
20 agency, as defined in the Community-Integrated Living
21 Arrangements Licensing and Certification Act; or

22 (4) the State Long Term Care Ombudsman Program,
23 including any regional long term care ombudsman programs
24 under Section 4.04 of the Illinois Act on the Aging, only
25 for the purpose of securing background checks.

26 "Initiate" means the obtaining of the authorization for a
27 record check from a student, applicant, or employee. The
28 educational entity or health care employer or its designee
29 shall transmit all necessary information and fees to the
30 Illinois State Police within 10 working days after receipt of
31 the authorization.

32 (Source: P.A. 92-16, eff. 6-28-01; 93-878, eff. 1-1-05.)

33 Section 25. The Nurse Agency Licensing Act is amended by

1 changing Sections 3 and 4 as follows:

2 (225 ILCS 510/3) (from Ch. 111, par. 953)

3 Sec. 3. Definitions. As used in this Act:

4 (a) "Certified nurse aide" means an individual certified as
5 defined in Section 3-206 of the Nursing Home Care Act, as now
6 or hereafter amended.

7 (b) "Department" means the Department of Labor.

8 (c) "Director" means the Director of Labor.

9 (d) "Health care facility" is defined as in Section 3 of
10 the Illinois Health Facilities Planning Act, as now or
11 hereafter amended.

12 (e) "Licensee" means any nursing agency which is properly
13 licensed under this Act.

14 (f) "Nurse" means a registered nurse or a licensed
15 practical nurse as defined in the Nursing and Advanced Practice
16 Nursing Act.

17 (g) "Nurse agency" means any individual, firm,
18 corporation, partnership or other legal entity that employs,
19 assigns or refers nurses or certified nurse aides to a health
20 care facility for a fee. The term "nurse agency" includes
21 nurses registries. The term "nurse agency" does not include
22 services provided by home health agencies licensed and operated
23 under the Home Health, Home Services, and Home Nursing Agency
24 Licensing Act or a licensed or certified individual who
25 provides his or her own services as a regular employee of a
26 health care facility, nor does it apply to a health care
27 facility's organizing nonsalaried employees to provide
28 services only in that facility.

29 (Source: P.A. 90-742, eff. 8-13-98.)

30 (225 ILCS 510/4) (from Ch. 111, par. 954)

31 Sec. 4. Licensing. The Department shall license nurse
32 agencies in accordance with this Act for the protection of the

1 health, welfare and safety of patients and residents. No person
2 may establish, operate, maintain, or advertise as a nurse
3 agency in the State of Illinois unless the person is licensed
4 under this Act by the Department of Labor. Being licensed under
5 the Home Health, Home Services, and Home Nursing Agency
6 Licensing Act does not relieve home health agencies that
7 provide nurse agency services from the requirement of obtaining
8 licensure under this Act. No health care facility shall use the
9 services of an unlicensed nurse agency.

10 (Source: P.A. 88-230.)

11 Section 30. The Community Services Act is amended by
12 changing Section 4.3 as follows:

13 (405 ILCS 30/4.3)

14 Sec. 4.3. Family Support Services Voucher Pilot Program.

15 (a) In this Section:

16 "Family member" means a family member as defined by rules
17 adopted by the Department of Human Services.

18 "Family support services" means the services and
19 activities described in subsection (d).

20 (b) The Department of Human Services shall establish a
21 Family Support Services Voucher Pilot Program which shall be a
22 conversion of the program defined in Section 4.1. The
23 Department may establish no more than 5 pilot programs.

24 (c) The purpose of the pilot program is to do the
25 following:

26 (1) Increase the number of families who are able to
27 access family support services.

28 (2) Provide families with greater control over family
29 support services.

30 (3) Ensure that the diverse family support services
31 needs of families can be accommodated.

32 (4) Encourage a family's contribution toward payment

1 for the family support services they receive.

2 (5) Serve as a pilot program to evaluate the merits of
3 a family support services voucher program in comparison to
4 the traditional respite program.

5 (d) The Department shall contract with community agencies
6 to issue vouchers to participating families, or to employ a
7 voucher-like method that similarly makes services available
8 based on the choice of families. A family may use the vouchers
9 to purchase the following services and activities or to
10 otherwise provide for those services and activities:

11 (1) Services of an in-home caregiver to supervise the
12 family member with a developmental disability in the home
13 or in the community or both when other family members are
14 not present.

15 (2) Services of a person to accompany the family member
16 with a developmental disability on outings, community
17 activities, and similar activities.

18 (3) Registration of the family member with a
19 developmental disability in park district programs,
20 extracurricular school activities, community college
21 classes, and other similar types of community-based
22 programs.

23 (4) Services of home health care personnel if medical
24 training or expertise is required to meet the needs of the
25 family member with a developmental disability.

26 (e) Families may employ the following types of individuals
27 to provide family support services:

28 (1) Related family members who do not reside in the
29 same home as the family member with a developmental
30 disability.

31 (2) Friends or neighbors whom the family designates as
32 capable of meeting the needs of the family member with a
33 developmental disability.

34 (3) Individuals recruited from the community (for

1 example, church members or college students).

2 (4) Individuals who work with the family member with a
3 developmental disability in a different capacity (for
4 example, classroom aide or day program staff).

5 (5) Persons whose services are contracted for through a
6 home health agency licensed under the Home Health, Home
7 Services, and Home Nursing Agency Licensing Act.

8 (f) Family support services moneys under the pilot program
9 may not be used to purchase or provide for any of the following
10 services or activities:

11 (1) Out-of-home medical services.

12 (2) Medical, therapeutic, or developmental
13 evaluations.

14 (3) Any product or item (for example, sports equipment,
15 therapeutic devices, or clothing).

16 (4) Family support services provided by a family member
17 whose primary residence is the same as that of the family
18 member with a developmental disability.

19 (5) Services of a person to accompany the family on an
20 overnight trip.

21 (6) Any service or activity that should be provided by
22 the school in which the family member with a developmental
23 disability is enrolled or that occurs as part of that
24 school's typical school routine.

25 (7) Child care services while the primary caretaker
26 works.

27 (g) The Department of Human Services shall submit a report
28 to the General Assembly by March 1, 2000 evaluating the merits
29 of the pilot program.

30 (Source: P.A. 90-804, eff. 1-1-99.)

31 Section 99. Effective date. This Act takes effect January
32 1, 2006."