

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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.)

21 (210 ILCS 55/1.01) (from Ch. 111 1/2, par. 2801.01)

22 Sec. 1.01. It is declared to be the public policy that the
23 State has a legitimate interest in assuring that all home
24 health services, home nursing services, and in-home support
25 services provided to a person at his residence are performed
26 under circumstances that insure consumer protection and
27 quality care. Therefore, the purpose of this Act is to provide
28 for the better protection of the public health, well-being, and

1 safety through the development, establishment, and enforcement
2 of standards for services, as well as standards for the care of
3 individuals receiving home health services and home nursing
4 services, and in the light of advancing knowledge, will provide
5 a viable alternative to the premature institutionalization of
6 these individuals.

7 It is further declared that health care and support
8 services are provided in the consumer's home by 3 basic types
9 of agencies: home health care, home nursing care, and home
10 support services. It is further understood that each type of
11 agency delivers a different type and scope of care or service.
12 Further, individuals providing the care or service require
13 different levels of education, training, and supervision.
14 Therefore, different types of regulatory oversight are
15 required.

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

17 (210 ILCS 55/2) (from Ch. 111 1/2, par. 2802)

18 Sec. 2. As used in this Act, unless the context requires
19 otherwise, the terms defined in the following Sections
20 proceeding Section 3 ~~2.01 through 2.07~~ have the meanings
21 ascribed to them in those Sections.

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

23 (210 ILCS 55/2.03a new)

24 Sec. 2.03a. "Agency" means a home health agency, home
25 nursing agency, or home services agency unless specifically
26 stated otherwise.

27 (210 ILCS 55/2.08 new)

28 Sec. 2.08. "Home services agency" means an agency that
29 provides services directly, or acts as a placement agency, for
30 the purpose of placing individuals as workers providing home
31 services for consumers in their personal residences. "Home
32 services agency" does not include agencies licensed under the
33 Nurse Agency Licensing Act, the Nursing Home Care Act, or the

1 Assisted Living and Shared Housing Act and does not include an
2 agency that limits its business exclusively to providing
3 housecleaning services. Programs providing services
4 exclusively through the Community Care Program of the Illinois
5 Department on Aging or the Department of Human Services Office
6 of Rehabilitation Services are not considered to be a home
7 services agency under this Act.

8 (210 ILCS 55/2.09 new)

9 Sec. 2.09. "Home services" or "in-home services" means
10 assistance with activities of daily living, housekeeping,
11 personal laundry, and companionship provided to an individual
12 in his or her personal residence, which are intended to enable
13 that individual to remain safely and comfortably in his or her
14 own personal residence. "Home services" or "in-home services"
15 does not include services that would be required to be
16 performed by an individual licensed under the Nursing and
17 Advanced Practice Nursing Act.

18 (210 ILCS 55/2.10 new)

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

22 (210 ILCS 55/2.11 new)

23 Sec. 2.11. "Home nursing agency" means an agency that
24 provides services directly, or acts as a placement agency, in
25 order to deliver skilled nursing services to persons in their
26 personal residences. A home nursing agency provides services
27 that would require a licensed nurse to perform. A home nursing
28 agency does not qualify for licensure as a home health agency
29 under this Act. "Home nursing agency" does not include an
30 individually licensed nurse acting as a private contractor or a
31 person that provides or procures temporary employment in health
32 care facilities, as defined in the Nurse Agency Licensing Act.

1 (210 ILCS 55/2.12 new)

2 Sec. 2.12. "Placement agency" means any person engaged for
3 gain or profit in the business of securing or attempting to
4 secure (i) work for hire for persons seeking work or (ii)
5 workers for employers. The term includes a private employment
6 agency and any other entity that places a worker for private
7 hire by a consumer in that consumer's residence for purposes of
8 providing home services. The term does not include a person
9 that provides or procures temporary employment in health care
10 facilities, as defined in the Nurse Agency Licensing Act.

11 (210 ILCS 55/3.3 new)

12 Sec. 3.3. Home services agency; license required. On and
13 after September 1, 2008, no person shall open, manage, conduct,
14 or maintain a home services agency, or advertise himself or
15 herself as a home services agency or as offering services that
16 would be included in the definition of home services or a home
17 services agency, without a license issued by the Department.
18 The Department shall adopt rules as necessary to protect the
19 health, safety, and well-being of clients through licensure of
20 home services agencies. Rules adopted by the Department may
21 include a system or schedule for graduated licensing of
22 agencies under this Act that allows a home services agency to
23 be licensed in conjunction with the licensure of a home health
24 agency with continued compliance at the highest level of
25 licensure and payment of the higher of the 2 licensure fees to
26 the Department. Any licensure fee collected for such a
27 graduated license shall be deposited into the Home Care
28 Services Agency Licensure Fund.

29 (210 ILCS 55/3.7 new)

30 Sec. 3.7. Home nursing agency; license required. On and
31 after September 1, 2008, no person shall open, manage, conduct,
32 or maintain a home nursing agency, or advertise himself or
33 herself as a home nursing agency or as offering services that
34 would be included in the definition of a home nursing agency,

1 without a license issued by the Department. The Department
2 shall adopt rules as necessary to protect the health, safety,
3 and well-being of clients through licensure of home nursing
4 agencies. Rules adopted by the Department may include a system
5 or schedule for graduated licensing of agencies under this Act
6 that allows a home nursing agency to be licensed in conjunction
7 with the licensure of a home health agency with continued
8 compliance at the highest level of licensure and payment of the
9 higher of the 2 licensure fees to the Department. Any licensure
10 fee collected for such a graduated license shall be deposited
11 into the Home Care Services Agency Licensure Fund.

12 (210 ILCS 55/4) (from Ch. 111 1/2, par. 2804)

13 Sec. 4. Types of licenses.

14 (a) If an applicant for licensure has not been previously
15 licensed, or if the home health agency, home services agency,
16 or home nursing agency is not in operation at the time
17 application is made, the Department may issue a provisional
18 license. A provisional license shall be valid for a period of
19 120 days unless sooner suspended or revoked pursuant to Section
20 9 of this Act. Within 30 days prior to the termination of a
21 provisional license, the Department shall inspect the ~~home~~
22 ~~health~~ agency and, if the applicant substantially meets the
23 requirements for licensure, it shall issue a license under this
24 Section. If the Department finds that a holder of a provisional
25 license does not substantially meet the requirements for
26 licensure, but has made significant progress toward meeting
27 those requirements, the Director may renew the provisional
28 license once for a period not to exceed 120 days from the
29 expiration date of the initial provisional license.

30 (b) (1) The Director may also issue a provisional license to
31 any licensed ~~home health~~ agency which does not substantially
32 comply with the provisions of this Act and the rules
33 promulgated hereunder, provided he finds that the health, ~~and~~
34 safety, and well-being of the clients ~~patients~~ of the ~~home~~
35 ~~health~~ agency will be protected during the period for which

1 such provisional license is issued. The term of such
2 provisional license shall not exceed 120 days.

3 (2) The Director shall advise the licensee of the
4 conditions under which such provisional license is issued,
5 including the manner in which the licensee fails to comply with
6 the provisions of the Act or rules, and the time within which
7 the corrections necessary for the ~~home health~~ agency to
8 substantially comply with the Act and rules shall be completed.

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

15 (c) An annual license shall be issued to any person
16 conducting or maintaining a home health agency upon receipt of
17 an application and payment of the licensure fee, and when the
18 other requirements of this Act, and the standards, rules and
19 regulations promulgated hereunder, are met. The fee for each
20 license or any renewal shall be \$25.

21 (d) As provided in rules adopted by the Department under
22 Sections 3.3 and 3.7 of this Act, a licensed home health agency
23 that maintains a home services agency or home nursing agency
24 may opt to maintain licensure under a graduated system. If that
25 option is chosen, the agency shall pay the higher of the
26 licensure fees for the overall license. Fees collected by the
27 Department under such a graduated licensure system shall be
28 deposited into the Home Care Services Agency Licensure Fund.

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

30 (210 ILCS 55/6.3 new)

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

32 (a) Before January 1, 2008, the Department shall adopt
33 standards for the licensure and operation of home services
34 agencies operated in this State. The structure of the standards
35 shall be based on the concept of home services and its focus on

1 assistance with activities of daily living, housekeeping,
2 personal laundry, and companionship being provided to an
3 individual intended to enable that individual to remain safely
4 and comfortably in his or her own personal residence. As home
5 services do not include services that would be required to be
6 performed by an individual licensed under the Nursing and
7 Advanced Practice Nursing Act, the standards shall be developed
8 from a similar concept. After consideration and
9 recommendations by the Home Health and Home Services Advisory
10 Committee, the Department shall adopt such rules and
11 regulations as are necessary for the proper regulation of home
12 services agencies. Requirements for licensure as a home
13 services agency shall include the following:

14 (1) Compliance with the requirements of the Health Care
15 Worker Background Check Act.

16 (2) Notification, in a form and manner established by
17 the Department by rule, to home services workers and
18 consumers as to the party or parties responsible under
19 State and federal laws for payment of employment taxes,
20 social security taxes, and workers' compensation,
21 liability, the day-to-day supervision of workers, and the
22 hiring, firing, and discipline of workers with the
23 placement arrangement for home services.

24 (3) Compliance with rules, as adopted by the
25 Department, in regard to (i) reporting by the licensee of
26 any known or suspected incidences of abuse, neglect, or
27 financial exploitation of an eligible adult, as defined in
28 the Elder Abuse and Neglect Act, by a home services worker
29 employed by or placed by the licensee or (ii) reports to a
30 law enforcement agency in connection with any other
31 individual protected under the laws of the State of
32 Illinois.

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

36 (b) The Department may establish fees for home services

1 agency licensure in rules in a manner that will make the
2 program self-supporting. The amount of the licensure fees shall
3 be based on the funding required for operation of the licensure
4 program.

5 (210 ILCS 55/6.7 new)

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

7 (a) Before January 1, 2008, the Department shall adopt
8 standards for the licensure and operation of home nursing
9 agencies operated in this State. After consideration and
10 recommendations by the Home Health and Home Services Advisory
11 Committee, the Department shall adopt such rules as are
12 necessary for the proper regulation of home nursing agencies.
13 Requirements for licensure as a home nursing agency shall
14 include the following:

15 (1) Compliance with the requirements of the Health Care
16 Worker Background Check Act.

17 (2) Notification, in a form and manner established by
18 the Department by rule, to home nursing agency workers and
19 consumers as to the party or parties responsible under
20 State and federal laws for payment of employment taxes,
21 social security taxes, and workers' compensation,
22 liability, the day-to-day supervision of workers, and the
23 hiring, firing, and discipline of workers with the
24 placement arrangement for home nursing services.

25 (3) Compliance with rules, as adopted by the
26 Department, in regard to (i) reporting by the licensee of
27 any known or suspected incidences of abuse, neglect, or
28 financial exploitation of an eligible adult, as defined in
29 the Elder Abuse and Neglect Act, by a home nursing care
30 worker employed by or placed by the licensee or (ii)
31 reports to a law enforcement agency in connection with any
32 other individual protected under the laws of the State of
33 Illinois.

34 (4) Compliance with rules, as adopted by the
35 Department, addressing the health, safety, and well-being

1 of clients receiving home nursing services.

2 (b) The Department may establish fees for home nursing
3 agency licensure in rules in a manner that will make the
4 program self-supporting. The amount of the licensure fees shall
5 be based on the funding required for the operation of the
6 licensure program.

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

8 Sec. 7. (a) The Director shall appoint a Home Health and
9 Home Services Advisory Committee composed of 15 ~~11~~ persons to
10 advise and consult with the Director in the administration of
11 this Act. Five of the appointed members shall represent the
12 home health agency profession. Four of the appointed members
13 shall represent the home services agency profession. ~~Of these~~
14 ~~5, one shall represent voluntary home health agencies, one~~
15 ~~shall represent for profit home health agencies, one shall~~
16 ~~represent private not for profit home health agencies, one~~
17 ~~shall represent institution based home health agencies, and~~
18 ~~one shall represent home health agencies operated by local~~
19 ~~health departments.~~ Four of the appointed members shall
20 represent the general public in the following categories: one
21 individual who is a consumer of home health services or a
22 family member of a consumer of home health services; one
23 individual who is a consumer of home services or a family
24 member of a consumer of home services; one individual who is a
25 home services worker; and one individual who is a
26 representative of an organization that advocates for
27 consumers. One member shall be a practicing Illinois licensed
28 physician; and one member shall be an Illinois registered
29 professional nurse with home health agency experience. The
30 recommendations of professional, ~~and~~ home health industry, and
31 home services industry organizations may be considered in
32 selecting individuals for appointment to the Home Health and
33 Home Services Advisory Committee.

34 (b) Each member shall hold office for a term of 3 years,
35 except that any member appointed to fill a vacancy occurring

1 prior to the expiration of the term for which his predecessor
2 was appointed shall be appointed for the remainder of such term
3 and the terms of office of the members first taking office
4 shall expire, as designated at the time of appointment, one at
5 the end of the first year, one at the end of the second year,
6 and 3 at the end of the third year. The term of office of each
7 of the original appointees shall commence on January 1, 1978.

8 (c) The term of office of each of the 6 members appointed
9 to the Committee as a result of this amendatory Act of 1989
10 shall commence on January 1, 1990. The terms of office of the 6
11 members appointed as a result of this amendatory Act of 1989
12 shall expire, as designated at the time of appointment, 2 at
13 the end of the first year, 2 at the end of the second year, and
14 two at the end of the third year.

15 (d) The Committee shall meet as frequently as the Director
16 deems necessary. Committee members, while serving on business
17 of the Committee, shall receive actual and necessary travel and
18 subsistence expenses while so serving away from their places of
19 residence.

20 (e) The Committee shall provide input and recommendations
21 to the Department on the development of rules for the licensure
22 of home services agencies and home nursing agencies operating
23 in this State. On or before July 1, 2007, the Committee shall
24 issue an interim report to the General Assembly on the status
25 of development and implementation of the rules for home
26 services agency and home nursing agency licensure.

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

28 (210 ILCS 55/8) (from Ch. 111 1/2, par. 2808)

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

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

33 (b) satisfactory evidence that the moral character of the
34 applicant or supervisor of the agency is not reputable. In
35 determining moral character, the Department may take into

1 consideration any convictions of the applicant or supervisor
2 but such convictions shall not operate as a bar to licensing;

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

5 (d) insufficient financial or other resources to operate
6 and conduct a home health, home services, or home nursing
7 agency in accordance with the requirements of this Act and the
8 minimum standards, rules and regulations promulgated
9 thereunder.

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

11 (210 ILCS 55/9.01) (from Ch. 111 1/2, par. 2809.01)

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

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

26 (210 ILCS 55/9.02) (from Ch. 111 1/2, par. 2809.02)

27 Sec. 9.02. When the Department determines that an agency ~~a~~
28 ~~home health agency~~ is in violation of this Act or any rule
29 promulgated hereunder, a notice of violation shall be served
30 upon the licensee. Each notice of violation shall be prepared
31 in writing and shall specify the nature of the violation and
32 the statutory provision or rule alleged to have been violated.
33 The notice shall inform the licensee of any action the
34 Department may take under this Act, including the requirement

1 of an ~~a home health~~ agency plan of correction under Section
2 9.03, assessment of a penalty under Section 9.04, or licensure
3 action under Section 9. The Director or his designee shall also
4 inform the licensee of rights to a hearing under Section 10.

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

6 (210 ILCS 55/9.03) (from Ch. 111 1/2, par. 2809.03)

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

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

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

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

33 (210 ILCS 55/9.04) (from Ch. 111 1/2, par. 2809.04)

34 Sec. 9.04. (a) The licensee of an ~~a home health~~ agency

1 operating in violation of this Act or any rule adopted
2 hereunder may be subject to the penalties or fines levied by
3 the Department as specified in this Section.

4 (b) When the Director determines that an ~~a home health~~
5 agency has failed to comply with this Act or any rule adopted
6 hereunder, the Department may issue a notice of fine assessment
7 which shall specify the violations for which the fine is
8 levied. The Department may impose a fine of \$100 per day
9 commencing on the date the violation was identified and ending
10 on the date the violation is corrected, or action is taken to
11 suspend, revoke, or deny renewal of the license, whichever
12 comes first.

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

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

21 (2) the reasonable diligence exercised by the licensee and
22 efforts to correct violations;

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

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

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

27 (210 ILCS 55/10.01) (from Ch. 111 1/2, par. 2810.01)

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

1 within 30 days, the Director shall issue an order to do any of
2 the following:

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

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

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

35 (d) bring an action in circuit court to recover the amount
36 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
32 violation or to enjoin the future operation or maintenance of
33 any such home health agency.

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

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

4 (210 ILCS 62/15)

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

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

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

13 (3) the office of a physician.

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

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

17 (225 ILCS 46/15)

18 Sec. 15. Definitions. For the purposes of this Act, the
19 following definitions apply:

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

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

29 "Direct care" means the provision of nursing care or
30 assistance with feeding, dressing, movement, bathing,
31 toileting, or other personal needs, including home services as
32 defined in the Home Health, Home Services, and Home Nursing

1 Agency Licensing Act. The entity responsible for inspecting and
2 licensing, certifying, or registering the health care employer
3 may, by administrative rule, prescribe guidelines for
4 interpreting this definition with regard to the health care
5 employers that it licenses.

6 "Health care employer" means:

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

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

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

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

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

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

19 (vi) a hospital, as defined in the Hospital
20 Licensing Act;

21 (vii) a community residential alternative, as
22 defined in the Community Residential Alternatives
23 Licensing Act;

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

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

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

30 (x) a supportive living program, as defined in the
31 Illinois Public Aid Code;

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

34 (xii) the University of Illinois Hospital,
35 Chicago;

36 (xiii) programs funded by the Department on Aging

1 through the Community Care Program;

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

5 (xv) programs listed by the Emergency Medical
6 Services (EMS) Systems Act as Freestanding Emergency
7 Centers;

8 (xvi) locations licensed under the Alternative
9 Health Care Delivery Act;

10 (2) a day training program certified by the Department
11 of Human Services;

12 (3) a community integrated living arrangement operated
13 by a community mental health and developmental service
14 agency, as defined in the Community-Integrated Living
15 Arrangements Licensing and Certification Act; or

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

20 "Initiate" means the obtaining of the authorization for a
21 record check from a student, applicant, or employee. The
22 educational entity or health care employer or its designee
23 shall transmit all necessary information and fees to the
24 Illinois State Police within 10 working days after receipt of
25 the authorization.

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

27 Section 25. The Nurse Agency Licensing Act is amended by
28 changing Sections 3 and 4 as follows:

29 (225 ILCS 510/3) (from Ch. 111, par. 953)

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

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

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

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

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

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

7 (f) "Nurse" means a registered nurse or a licensed
8 practical nurse as defined in the Nursing and Advanced Practice
9 Nursing Act.

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

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

23 (225 ILCS 510/4) (from Ch. 111, par. 954)

24 Sec. 4. Licensing. The Department shall license nurse
25 agencies in accordance with this Act for the protection of the
26 health, welfare and safety of patients and residents. No person
27 may establish, operate, maintain, or advertise as a nurse
28 agency in the State of Illinois unless the person is licensed
29 under this Act by the Department of Labor. Being licensed under
30 the Home Health, Home Services, and Home Nursing Agency
31 Licensing Act does not relieve home health agencies that
32 provide nurse agency services from the requirement of obtaining
33 licensure under this Act. No health care facility shall use the
34 services of an unlicensed nurse agency.

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

1 Section 30. The Community Services Act is amended by
2 changing Section 4.3 as follows:

3 (405 ILCS 30/4.3)

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

5 (a) In this Section:

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

8 "Family support services" means the services and
9 activities described in subsection (d).

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

14 (c) The purpose of the pilot program is to do the
15 following:

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

18 (2) Provide families with greater control over family
19 support services.

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

22 (4) Encourage a family's contribution toward payment
23 for the family support services they receive.

24 (5) Serve as a pilot program to evaluate the merits of
25 a family support services voucher program in comparison to
26 the traditional respite program.

27 (d) The Department shall contract with community agencies
28 to issue vouchers to participating families, or to employ a
29 voucher-like method that similarly makes services available
30 based on the choice of families. A family may use the vouchers
31 to purchase the following services and activities or to
32 otherwise provide for those services and activities:

33 (1) Services of an in-home caregiver to supervise the
34 family member with a developmental disability in the home

1 or in the community or both when other family members are
2 not present.

3 (2) Services of a person to accompany the family member
4 with a developmental disability on outings, community
5 activities, and similar activities.

6 (3) Registration of the family member with a
7 developmental disability in park district programs,
8 extracurricular school activities, community college
9 classes, and other similar types of community-based
10 programs.

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

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

16 (1) Related family members who do not reside in the
17 same home as the family member with a developmental
18 disability.

19 (2) Friends or neighbors whom the family designates as
20 capable of meeting the needs of the family member with a
21 developmental disability.

22 (3) Individuals recruited from the community (for
23 example, church members or college students).

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

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

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

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

34 (2) Medical, therapeutic, or developmental
35 evaluations.

36 (3) Any product or item (for example, sports equipment,

1 therapeutic devices, or clothing).

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

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

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

11 (7) Child care services while the primary caretaker
12 works.

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

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

17 Section 99. Effective date. This Act takes effect January
18 1, 2006.