

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 Hospital Licensing Act, the

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

21 (210 ILCS 55/3.7 new)

22 Sec. 3.7. Home nursing agency; license required. On and
23 after September 1, 2008, no person shall open, manage, conduct,
24 or maintain a home nursing agency, or advertise himself or
25 herself as a home nursing agency or as offering services that
26 would be included in the definition of a home nursing agency,
27 without a license issued by the Department. The Department
28 shall adopt rules as necessary to protect the health, safety,
29 and well-being of clients through licensure of home nursing
30 agencies.

31 (210 ILCS 55/4) (from Ch. 111 1/2, par. 2804)

32 Sec. 4. Types of licenses.

33 (a) If an applicant for licensure has not been previously

1 licensed, or if the home health agency, home services agency,
2 or home nursing agency is not in operation at the time
3 application is made, the Department may issue a provisional
4 license. A provisional license shall be valid for a period of
5 120 days unless sooner suspended or revoked pursuant to Section
6 9 of this Act. Within 30 days prior to the termination of a
7 provisional license, the Department shall inspect the ~~home~~
8 ~~health~~ agency and, if the applicant substantially meets the
9 requirements for licensure, it shall issue a license under this
10 Section. If the Department finds that a holder of a provisional
11 license does not substantially meet the requirements for
12 licensure, but has made significant progress toward meeting
13 those requirements, the Director may renew the provisional
14 license once for a period not to exceed 120 days from the
15 expiration date of the initial provisional license.

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

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

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

36 (c) An annual license shall be issued to any person

1 conducting or maintaining a home health agency upon receipt of
2 an application and payment of the licensure fee, and when the
3 other requirements of this Act, and the standards, rules and
4 regulations promulgated hereunder, are met. The fee for each
5 single home health agency license or any renewal shall be \$25.

6 (d) The Department shall establish, by rule, a system
7 whereby an entity that meets the requirements for licensure may
8 obtain licensure singly or in any combination for the
9 categories authorized under this Act. The Department shall
10 develop and implement one application to be used even if a
11 combination of licenses authorized under the Act is sought.
12 Applicants for multiple licenses under this system shall pay
13 the higher of the licensure fees applicable. Fees collected
14 under this system shall be deposited into the Home Care
15 Services Agency Licensure Fund.

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

17 (210 ILCS 55/6.3 new)

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

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

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

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

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

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

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

28 (210 ILCS 55/6.7 new)

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

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

1 Requirements for licensure as a home nursing agency shall
2 include the following:

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

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

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

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

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

30 (210 ILCS 55/7) (from Ch. 111 1/2, par. 2807)

31 Sec. 7. (a) The Director shall appoint a Home Health and
32 Home Services Advisory Committee composed of 15 ~~11~~ persons to
33 advise and consult with the Director in the administration of
34 this Act. Five of the appointed members shall represent the
35 home health agency profession. Of these 5, one shall represent

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

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

31 (c) The term of office of each of the 6 members appointed
32 to the Committee as a result of this amendatory Act of 1989
33 shall commence on January 1, 1990. The terms of office of the 6
34 members appointed as a result of this amendatory Act of 1989
35 shall expire, as designated at the time of appointment, 2 at
36 the end of the first year, 2 at the end of the second year, and

1 two at the end of the third year.

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

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

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

15 (210 ILCS 55/8) (from Ch. 111 1/2, par. 2808)

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

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

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

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

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

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

33 (210 ILCS 55/9.01) (from Ch. 111 1/2, par. 2809.01)

34 Sec. 9.01. The Department may conduct any such

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

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

14 (210 ILCS 55/9.02) (from Ch. 111 1/2, par. 2809.02)

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

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

28 (210 ILCS 55/9.03) (from Ch. 111 1/2, par. 2809.03)

29 Sec. 9.03. (a) Each ~~home health~~ agency served with a notice
30 of violation under Section 9.02 of this Act shall file with the
31 Department a written plan of correction within 10 days of
32 receipt of the notice. The plan of correction is subject to
33 approval of the Department. The plan of correction shall state
34 with particularity the method by which the ~~home health~~ agency

1 intends to correct each violation and shall contain a stated
2 date by which each violation shall be corrected.

3 (b) If the Department rejects a plan of correction, it
4 shall send notice of the rejection and the reason for the
5 rejection to the licensee. The ~~home health~~ agency shall have 10
6 days after receipt of the notice of rejection in which to
7 submit a modified plan. If the modified plan is not submitted
8 on time, or if the modified plan is rejected, the ~~home health~~
9 agency shall follow a plan of correction imposed by the
10 Department.

11 (c) If an ~~a home health~~ agency desires to contest any
12 Department action under this Section, it shall send a written
13 request for a hearing under Section 10 to the Department within
14 10 days of receipt of notice of the contested action. The
15 Department shall commence the hearing as provided under Section
16 10. Whenever possible, all action of the Department under this
17 Section arising out of a violation shall be contested and
18 determined at a single hearing. Issues decided at a hearing may
19 not be reheard at subsequent hearings under this Section.

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

21 (210 ILCS 55/9.04) (from Ch. 111 1/2, par. 2809.04)

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

26 (b) When the Director determines that an ~~a home health~~
27 agency has failed to comply with this Act or any rule adopted
28 hereunder, the Department may issue a notice of fine assessment
29 which shall specify the violations for which the fine is
30 levied. The Department may impose a fine of \$100 per day
31 commencing on the date the violation was identified and ending
32 on the date the violation is corrected, or action is taken to
33 suspend, revoke, or deny renewal of the license, whichever
34 comes first.

35 (c) In determining whether a fine is to be imposed, the

1 Director shall consider the following factors:

2 (1) the gravity of the violation, including the probability
3 that death or serious physical or mental harm to a patient or
4 consumer will result or has resulted, the severity of the
5 actual or potential harm, and the extent to which the
6 provisions of the applicable statutes or regulations were
7 violated;

8 (2) the reasonable diligence exercised by the licensee and
9 efforts to correct violations;

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

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

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

14 (210 ILCS 55/10.01) (from Ch. 111 1/2, par. 2810.01)

15 Sec. 10.01. All fines shall be paid to the Department
16 within 10 days of the notice of assessment or, if the fine is
17 contested under Section 10 of this Act, within 10 days of the
18 receipt of the final decision, unless the decision is appealed
19 and the order is stayed by court order under Section 12 of this
20 Act. A fine assessed under this Act shall be collected by the
21 Department. If the licensee against whom the fine has been
22 assessed does not comply with a written demand for payment
23 within 30 days, the Director shall issue an order to do any of
24 the following:

25 (a) certify to the Comptroller, as provided by rule of the
26 Department of delinquent fines due and owing from the licensee
27 or any amounts due and owing as a result of a civil action
28 pursuant to subsection (d) of this Section The purpose of
29 certification shall be to intercept State income tax refunds
30 and other payments due such licensee in order to satisfy, in
31 whole or in part, any delinquent fines or amounts recoverable
32 in a civil action brought pursuant to subsection (d) of this
33 Section. The rule shall provide for notice to any such licensee
34 or person affected. Any final administrative decision rendered
35 by the Department with respect to any certification made

1 pursuant to this subsection (a) shall be reviewed only under
2 and in accordance with the Administrative Review Law.

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

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

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

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

25 (210 ILCS 55/10.05 new)

26 Sec. 10.05. Home Care Services Agency Licensure Fund. The
27 Department shall deposit all fees and fines collected in
28 relation to the licensure of home services agencies and home
29 nursing agencies into the Home Care Services Agency Licensure
30 Fund, a special fund created in the State treasury, for the
31 purpose of providing funding for the administration of the
32 program of home services agency and home nursing agency
33 licensure.

34 (210 ILCS 55/12) (from Ch. 111 1/2, par. 2812)

1 Sec. 12. Whenever the Department refuses to grant, or
2 revokes or suspends a license to open, conduct, operate, or
3 maintain an ~~a home health~~ agency, the applicant or licensee may
4 have such decision judicially reviewed. The provisions of the
5 Administrative Review Law, as heretofore or hereafter amended,
6 and the rules adopted pursuant thereto shall apply to and
7 govern all proceedings for the judicial review of final
8 administrative decisions of the Department hereunder. The term
9 "administrative decisions" is defined as in Section 3-101 of
10 the Code of Civil Procedure.

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

12 (210 ILCS 55/14) (from Ch. 111 1/2, par. 2814)

13 Sec. 14. The operation or maintenance of an ~~a home health~~
14 agency in violation of this Act or of the Rules and Regulations
15 promulgated by the Department is declared a public nuisance
16 inimical to the public welfare. The Director of the Department
17 in the name of the People of the State, through the Attorney
18 General or the State's Attorney of the county in which the
19 violation occurs, may in addition to other remedies herein
20 provided, bring action for an injunction to restrain such
21 violation or to enjoin the future operation or maintenance of
22 any such ~~home health~~ agency.

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

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

26 (210 ILCS 62/15)

27 Sec. 15. Exemptions from licensing requirement. The
28 following facilities are not required to be licensed under this
29 Act:

30 (1) a home health agency licensed under the Home
31 Health, Home Services, and Home Nursing Agency Licensing
32 Act;

33 (2) a hospital licensed under the Hospital Licensing

1 Act or the University of Illinois Hospital Act; and
2 (3) the office of a physician.

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

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

6 (225 ILCS 46/15)

7 Sec. 15. Definitions. For the purposes of this Act, the
8 following definitions apply:

9 "Applicant" means an individual seeking employment with a
10 health care employer who has received a bona fide conditional
11 offer of employment.

12 "Conditional offer of employment" means a bona fide offer
13 of employment by a health care employer to an applicant, which
14 is contingent upon the receipt of a report from the Department
15 of State Police indicating that the applicant does not have a
16 record of conviction of any of the criminal offenses enumerated
17 in Section 25.

18 "Direct care" means the provision of nursing care or
19 assistance with feeding, dressing, movement, bathing,
20 toileting, or other personal needs, including home services as
21 defined in the Home Health, Home Services, and Home Nursing
22 Agency Licensing Act. The entity responsible for inspecting and
23 licensing, certifying, or registering the health care employer
24 may, by administrative rule, prescribe guidelines for
25 interpreting this definition with regard to the health care
26 employers that it licenses.

27 "Health care employer" means:

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

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

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

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

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

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

6 (vi) a hospital, as defined in the Hospital
7 Licensing Act;

8 (vii) a community residential alternative, as
9 defined in the Community Residential Alternatives
10 Licensing Act;

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

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

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

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

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

21 (xii) the University of Illinois Hospital,
22 Chicago;

23 (xiii) programs funded by the Department on Aging
24 through the Community Care Program;

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

28 (xv) programs listed by the Emergency Medical
29 Services (EMS) Systems Act as Freestanding Emergency
30 Centers;

31 (xvi) locations licensed under the Alternative
32 Health Care Delivery Act;

33 (2) a day training program certified by the Department
34 of Human Services;

35 (3) a community integrated living arrangement operated
36 by a community mental health and developmental service

1 agency, as defined in the Community-Integrated Living
2 Arrangements Licensing and Certification Act; or

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

7 "Initiate" means the obtaining of the authorization for a
8 record check from a student, applicant, or employee. The
9 educational entity or health care employer or its designee
10 shall transmit all necessary information and fees to the
11 Illinois State Police within 10 working days after receipt of
12 the authorization.

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

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

16 (225 ILCS 510/3) (from Ch. 111, par. 953)

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

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

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

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

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

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

28 (f) "Nurse" means a registered nurse or a licensed
29 practical nurse as defined in the Nursing and Advanced Practice
30 Nursing Act.

31 (g) "Nurse agency" means any individual, firm,
32 corporation, partnership or other legal entity that employs,
33 assigns or refers nurses or certified nurse aides to a health
34 care facility for a fee. The term "nurse agency" includes

1 nurses registries. The term "nurse agency" does not include
2 services provided by home health agencies licensed and operated
3 under the Home Health, Home Services, and Home Nursing Agency
4 Licensing Act or a licensed or certified individual who
5 provides his or her own services as a regular employee of a
6 health care facility, nor does it apply to a health care
7 facility's organizing nonsalaried employees to provide
8 services only in that facility.

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

10 (225 ILCS 510/4) (from Ch. 111, par. 954)

11 Sec. 4. Licensing. The Department shall license nurse
12 agencies in accordance with this Act for the protection of the
13 health, welfare and safety of patients and residents. No person
14 may establish, operate, maintain, or advertise as a nurse
15 agency in the State of Illinois unless the person is licensed
16 under this Act by the Department of Labor. Being licensed under
17 the Home Health, Home Services, and Home Nursing Agency
18 Licensing Act does not relieve home health agencies that
19 provide nurse agency services from the requirement of obtaining
20 licensure under this Act. No health care facility shall use the
21 services of an unlicensed nurse agency.

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

23 Section 30. The Community Services Act is amended by
24 changing Section 4.3 as follows:

25 (405 ILCS 30/4.3)

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

27 (a) In this Section:

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

30 "Family support services" means the services and
31 activities described in subsection (d).

32 (b) The Department of Human Services shall establish a
33 Family Support Services Voucher Pilot Program which shall be a

1 conversion of the program defined in Section 4.1. The
2 Department may establish no more than 5 pilot programs.

3 (c) The purpose of the pilot program is to do the
4 following:

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

7 (2) Provide families with greater control over family
8 support services.

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

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

13 (5) Serve as a pilot program to evaluate the merits of
14 a family support services voucher program in comparison to
15 the traditional respite program.

16 (d) The Department shall contract with community agencies
17 to issue vouchers to participating families, or to employ a
18 voucher-like method that similarly makes services available
19 based on the choice of families. A family may use the vouchers
20 to purchase the following services and activities or to
21 otherwise provide for those services and activities:

22 (1) Services of an in-home caregiver to supervise the
23 family member with a developmental disability in the home
24 or in the community or both when other family members are
25 not present.

26 (2) Services of a person to accompany the family member
27 with a developmental disability on outings, community
28 activities, and similar activities.

29 (3) Registration of the family member with a
30 developmental disability in park district programs,
31 extracurricular school activities, community college
32 classes, and other similar types of community-based
33 programs.

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

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

3 (1) Related family members who do not reside in the
4 same home as the family member with a developmental
5 disability.

6 (2) Friends or neighbors whom the family designates as
7 capable of meeting the needs of the family member with a
8 developmental disability.

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

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

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

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

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

21 (2) Medical, therapeutic, or developmental
22 evaluations.

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

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

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

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

34 (7) Child care services while the primary caretaker
35 works.

36 (g) The Department of Human Services shall submit a report

1 to the General Assembly by March 1, 2000 evaluating the merits
2 of the pilot program.

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

4 Section 99. Effective date. This Act takes effect January
5 1, 2006.