

1 AN ACT concerning aging.

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

4 Section 5. The Illinois Act on Aging is amended by changing  
5 Section 4.04 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program.

8 (a) Long Term Care Ombudsman Program. The Department shall  
9 establish a Long Term Care Ombudsman Program, through the  
10 Office of State Long Term Care Ombudsman ("the Office"), in  
11 accordance with the provisions of the Older Americans Act of  
12 1965, as now or hereafter amended.

13 (b) Definitions. As used in this Section, unless the  
14 context requires otherwise:

15 (1) "Access" has the same meaning as in Section 1-104  
16 of the Nursing Home Care Act, as now or hereafter amended;  
17 that is, it means the right to:

18 (i) Enter any long term care facility or assisted  
19 living or shared housing establishment or supportive  
20 living facility;

21 (ii) Communicate privately and without restriction  
22 with any resident, regardless of age, who consents to  
23 the communication;

1           (iii) Seek consent to communicate privately and  
2           without restriction with any resident, regardless of  
3           age;

4           (iv) Inspect the clinical and other records of a  
5           resident, regardless of age, with the express written  
6           consent of the resident;

7           (v) Observe all areas of the long term care  
8           facility or supportive living facilities, assisted  
9           living or shared housing establishment except the  
10          living area of any resident who protests the  
11          observation.

12          (2) "Long Term Care Facility" means (i) any facility as  
13          defined by Section 1-113 of the Nursing Home Care Act, as  
14          now or hereafter amended; and (ii) any skilled nursing  
15          facility or a nursing facility which meets the requirements  
16          of Section 1819(a), (b), (c), and (d) or Section 1919(a),  
17          (b), (c), and (d) of the Social Security Act, as now or  
18          hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)  
19          and 42 U.S.C. 1396r(a), (b), (c), and (d)).

20          (2.5) "Assisted living establishment" and "shared  
21          housing establishment" have the meanings given those terms  
22          in Section 10 of the Assisted Living and Shared Housing  
23          Act.

24          (2.7) "Supportive living facility" means a facility  
25          established under Section 5-5.01a of the Illinois Public  
26          Aid Code.

1           (3) "State Long Term Care Ombudsman" means any person  
2 employed by the Department to fulfill the requirements of  
3 the Office of State Long Term Care Ombudsman as required  
4 under the Older Americans Act of 1965, as now or hereafter  
5 amended, and Departmental policy.

6           (3.1) "Ombudsman" means any designated representative  
7 of a regional long term care ombudsman program; provided  
8 that the representative, whether he is paid for or  
9 volunteers his ombudsman services, shall be qualified and  
10 designated by the Office to perform the duties of an  
11 ombudsman as specified by the Department in rules and in  
12 accordance with the provisions of the Older Americans Act  
13 of 1965, as now or hereafter amended.

14           (c) Ombudsman; rules. The Office of State Long Term Care  
15 Ombudsman shall be composed of at least one full-time ombudsman  
16 and shall include a system of designated regional long term  
17 care ombudsman programs. Each regional program shall be  
18 designated by the State Long Term Care Ombudsman as a  
19 subdivision of the Office and any representative of a regional  
20 program shall be treated as a representative of the Office.

21           The Department, in consultation with the Office, shall  
22 promulgate administrative rules in accordance with the  
23 provisions of the Older Americans Act of 1965, as now or  
24 hereafter amended, to establish the responsibilities of the  
25 Department and the Office of State Long Term Care Ombudsman and  
26 the designated regional Ombudsman programs. The administrative

1 rules shall include the responsibility of the Office and  
2 designated regional programs to investigate and resolve  
3 complaints made by or on behalf of residents of long term care  
4 facilities, supportive living facilities, and assisted living  
5 and shared housing establishments, including the option to  
6 serve residents under the age of 60, relating to actions,  
7 inaction, or decisions of providers, or their representatives,  
8 of long term care facilities, of supported living facilities,  
9 of assisted living and shared housing establishments, of public  
10 agencies, or of social services agencies, which may adversely  
11 affect the health, safety, welfare, or rights of such  
12 residents. The Office and designated regional programs may  
13 represent all residents, but are not required by this Act to  
14 represent persons under 60 years of age, except to the extent  
15 required by federal law. When necessary and appropriate,  
16 representatives of the Office shall refer complaints to the  
17 appropriate regulatory State agency. The Department, in  
18 consultation with the Office, shall cooperate with the  
19 Department of Human Services and other State agencies in  
20 providing information and training to designated regional long  
21 term care ombudsman programs about the appropriate assessment  
22 and treatment (including information about appropriate  
23 supportive services, treatment options, and assessment of  
24 rehabilitation potential) of the residents they serve,  
25 including children, persons with mental illness (other than  
26 Alzheimer's disease and related disorders), and persons with

1 developmental disabilities.

2 The State Long Term Care Ombudsman and all other ombudsmen,  
3 as defined in paragraph (3.1) of subsection (b) must submit to  
4 background checks under the Health Care Worker Background Check  
5 Act and receive training, as prescribed by the Illinois  
6 Department on Aging, before visiting facilities. The training  
7 must include information specific to assisted living  
8 establishments, supportive living facilities, and shared  
9 housing establishments and to the rights of residents  
10 guaranteed under the corresponding Acts and administrative  
11 rules.

12 (c-5) Consumer Choice Information Reports. The Office  
13 shall:

14 (1) In collaboration with the Attorney General, create  
15 a Consumer Choice Information Report form to be completed  
16 by all licensed long term care facilities to aid  
17 Illinoisans and their families in making informed choices  
18 about long term care. The Office shall create a Consumer  
19 Choice Information Report for each type of licensed long  
20 term care facility.

21 (2) Develop a database of Consumer Choice Information  
22 Reports completed by licensed long term care facilities  
23 that includes information in the following consumer  
24 categories:

25 (A) Medical Care, Services, and Treatment.

26 (B) Special Services and Amenities.

- 1 (C) Staffing.
- 2 (D) Facility Statistics and Resident Demographics.
- 3 (E) Ownership and Administration.
- 4 (F) Safety and Security.
- 5 (G) Meals and Nutrition.
- 6 (H) Rooms, Furnishings, and Equipment.
- 7 (I) Family, Volunteer, and Visitation Provisions.

8 (3) Make this information accessible to the public,  
9 including on the Internet by means of a hyperlink labeled  
10 "Resident's Right to Know" on the Office's World Wide Web  
11 home page.

12 (4) Have the authority, with the Attorney General, to  
13 verify that information provided by a facility is accurate.

14 (5) Request a new report from any licensed facility  
15 whenever it deems necessary.

16 (6) Include in the Office's Consumer Choice  
17 Information Report for each type of licensed long term care  
18 facility additional information on each licensed long term  
19 care facility in the State of Illinois, including  
20 information regarding each facility's compliance with the  
21 relevant State and federal statutes, rules, and standards;  
22 customer satisfaction surveys; and information generated  
23 from quality measures developed by the Centers for Medicare  
24 and Medicaid Services.

25 (d) Access and visitation rights.

26 (1) In accordance with subparagraphs (A) and (E) of

1 paragraph (3) of subsection (c) of Section 1819 and  
2 subparagraphs (A) and (E) of paragraph (3) of subsection  
3 (c) of Section 1919 of the Social Security Act, as now or  
4 hereafter amended (42 U.S.C. 1395i-3 (c)(3)(A) and (E) and  
5 42 U.S.C. 1396r (c)(3)(A) and (E)), and Section 712 of the  
6 Older Americans Act of 1965, as now or hereafter amended  
7 (42 U.S.C. 3058f), a long term care facility, supportive  
8 living facility, assisted living establishment, and shared  
9 housing establishment must:

10 (i) permit immediate access to any resident,  
11 regardless of age, by a designated ombudsman; and

12 (ii) permit representatives of the Office, with  
13 the permission of the resident's legal representative  
14 or legal guardian, to examine a resident's clinical and  
15 other records, regardless of the age of the resident,  
16 and if a resident is unable to consent to such review,  
17 and has no legal guardian, permit representatives of  
18 the Office appropriate access, as defined by the  
19 Department, in consultation with the Office, in  
20 administrative rules, to the resident's records.

21 (2) Each long term care facility, supportive living  
22 facility, assisted living establishment, and shared  
23 housing establishment shall display, in multiple,  
24 conspicuous public places within the facility accessible  
25 to both visitors and residents and in an easily readable  
26 format, the address and phone number of the Office of the

1 Long Term Care Ombudsman, in a manner prescribed by the  
2 Office.

3 (e) Immunity. An ombudsman or any representative of the  
4 Office participating in the good faith performance of his or  
5 her official duties shall have immunity from any liability  
6 (civil, criminal or otherwise) in any proceedings (civil,  
7 criminal or otherwise) brought as a consequence of the  
8 performance of his official duties.

9 (f) Business offenses.

10 (1) No person shall:

11 (i) Intentionally prevent, interfere with, or  
12 attempt to impede in any way any representative of the  
13 Office in the performance of his official duties under  
14 this Act and the Older Americans Act of 1965; or

15 (ii) Intentionally retaliate, discriminate  
16 against, or effect reprisals against any long term care  
17 facility resident or employee for contacting or  
18 providing information to any representative of the  
19 Office.

20 (2) A violation of this Section is a business offense,  
21 punishable by a fine not to exceed \$501.

22 (3) The Director of Aging, in consultation with the  
23 Office, shall notify the State's Attorney of the county in  
24 which the long term care facility, supportive living  
25 facility, or assisted living or shared housing  
26 establishment is located, or the Attorney General, of any



1 violations of this Section.

2 (g) Confidentiality of records and identities. The  
3 Department shall establish procedures for the disclosure by the  
4 State Ombudsman or the regional ombudsmen entities of files  
5 maintained by the program. The procedures shall provide that  
6 the files and records may be disclosed only at the discretion  
7 of the State Long Term Care Ombudsman or the person designated  
8 by the State Ombudsman to disclose the files and records, and  
9 the procedures shall prohibit the disclosure of the identity of  
10 any complainant, resident, witness, or employee of a long term  
11 care provider unless:

12 (1) the complainant, resident, witness, or employee of  
13 a long term care provider or his or her legal  
14 representative consents to the disclosure and the consent  
15 is in writing;

16 (2) the complainant, resident, witness, or employee of  
17 a long term care provider gives consent orally; and the  
18 consent is documented contemporaneously in writing in  
19 accordance with such requirements as the Department shall  
20 establish; or

21 (3) the disclosure is required by court order.

22 (h) Legal representation. The Attorney General shall  
23 provide legal representation to any representative of the  
24 Office against whom suit or other legal action is brought in  
25 connection with the performance of the representative's  
26 official duties, in accordance with the State Employee

1 Indemnification Act.

2 (i) Treatment by prayer and spiritual means. Nothing in  
3 this Act shall be construed to authorize or require the medical  
4 supervision, regulation or control of remedial care or  
5 treatment of any resident in a long term care facility operated  
6 exclusively by and for members or adherents of any church or  
7 religious denomination the tenets and practices of which  
8 include reliance solely upon spiritual means through prayer for  
9 healing.

10 (j) The Long Term Care Ombudsman Fund is created as a  
11 special fund in the State treasury to receive moneys for the  
12 express purposes of this Section. All interest earned on moneys  
13 in the fund shall be credited to the fund. Moneys contained in  
14 the fund shall be used to support the purposes of this Section.

15 (Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09;  
16 96-328, eff. 8-11-09; 96-758, eff. 8-25-09.)

17 Section 10. The Department of Public Health Powers and  
18 Duties Law of the Civil Administrative Code of Illinois is  
19 amended by changing Section 2310-130 as follows:

20 (20 ILCS 2310/2310-130) (was 20 ILCS 2310/55.82)

21 Sec. 2310-130. Medicare or Medicaid certification fee;  
22 Health Care Facility and Program Survey Fund. To establish and  
23 charge a fee to any facility or program applying to be  
24 certified to participate in the Medicare program under Title

1 XVIII of the federal Social Security Act or in the Medicaid  
2 program under Title XIX of the federal Social Security Act to  
3 cover the costs associated with the application, inspection,  
4 and survey of the facility or program and processing of the  
5 application. The Department shall establish the fee by rule,  
6 and the fee shall be based only on those application,  
7 inspection, and survey and processing costs not reimbursed to  
8 the State by the federal government. The fee shall be paid by  
9 the facility or program before the application is processed.

10 The fees received by the Department under this Section  
11 shall be deposited into the Health Care Facility and Program  
12 Survey Fund, which is hereby created as a special fund in the  
13 State treasury. Moneys in the Fund shall be appropriated to the  
14 Department and may be used for any costs incurred by the  
15 Department, including personnel costs, in the processing of  
16 applications for Medicare or Medicaid certification.

17 Beginning July 1, 2011, the Department shall employ a  
18 minimum of one surveyor for every 500 licensed long term care  
19 beds. Beginning July 1, 2012, the Department shall employ a  
20 minimum of one surveyor for every 400 licensed long term care  
21 beds. Beginning July 1, 2013, the Department shall employ a  
22 minimum of one surveyor for every 300 licensed long term care  
23 beds.

24 (Source: P.A. 91-239, eff. 1-1-00.)

25 Section 15. The Criminal Identification Act is amended by

1 adding Section 7.5 as follows:

2 (20 ILCS 2630/7.5 new)

3 Sec. 7.5. Notification of outstanding warrant. If the  
4 existence of an outstanding arrest warrant is identified by the  
5 Department of State Police in connection with the criminal  
6 history background checks conducted pursuant to subsection (b)  
7 of Section 2-201.5 of the Nursing Home Care Act or subsection  
8 (d) of Section 6.09 of the Hospital Licensing Act, the  
9 Department shall notify the jurisdiction issuing the warrant of  
10 the following:

11 (1) Existence of the warrant.

12 (2) The name, address, and telephone number of the  
13 licensed long term care facility in which the wanted person  
14 resides.

15 Local issuing jurisdictions shall be aware that nursing  
16 facilities have residents who may be fragile or vulnerable or  
17 who may have a mental illness. When serving a warrant, law  
18 enforcement shall make every attempt to mitigate the adverse  
19 impact on other facility residents.

20 Section 20. The Illinois Health Facilities Planning Act is  
21 amended by changing Section 14.1 as follows:

22 (20 ILCS 3960/14.1)

23 (Text of Section before amendment by P.A. 96-339)

1 (Section scheduled to be repealed on December 31, 2019)

2 Sec. 14.1. Denial of permit; other sanctions.

3 (a) The State Board may deny an application for a permit or  
4 may revoke or take other action as permitted by this Act with  
5 regard to a permit as the State Board deems appropriate,  
6 including the imposition of fines as set forth in this Section,  
7 for any one or a combination of the following:

8 (1) The acquisition of major medical equipment without  
9 a permit or in violation of the terms of a permit.

10 (2) The establishment, construction, or modification  
11 of a health care facility without a permit or in violation  
12 of the terms of a permit.

13 (3) The violation of any provision of this Act or any  
14 rule adopted under this Act.

15 (4) The failure, by any person subject to this Act, to  
16 provide information requested by the State Board or Agency  
17 within 30 days after a formal written request for the  
18 information.

19 (5) The failure to pay any fine imposed under this  
20 Section within 30 days of its imposition.

21 (a-5) For facilities licensed under the Nursing Home Care  
22 Act, no permit shall be denied on the basis of prior operator  
23 history, other than for: (i) actions specified under item (2),  
24 (3), (4), ~~or~~ (5), or (6) of Section 3-117 of the Nursing Home  
25 Care Act; (ii) actions specified under item (a)(6) of Section  
26 3-119 of the Nursing Home Care Act; or (iii) actions within the

1 preceding 5 years constituting a substantial and repeated  
2 failure to comply with the Nursing Home Care Act or the rules  
3 and regulations adopted by the Department under that Act. The  
4 State Board shall not deny a permit on account of any action  
5 described in item (i), (ii), or (iii) of this subsection  
6 without also considering all such actions in the light of all  
7 relevant information available to the State Board, including  
8 whether the permit is sought to substantially comply with a  
9 mandatory or voluntary plan of correction associated with any  
10 action described in item (i), (ii), or (iii) of this  
11 subsection.

12 (b) Persons shall be subject to fines as follows:

13 (1) A permit holder who fails to comply with the  
14 requirements of maintaining a valid permit shall be fined  
15 an amount not to exceed 1% of the approved permit amount  
16 plus an additional 1% of the approved permit amount for  
17 each 30-day period, or fraction thereof, that the violation  
18 continues.

19 (2) A permit holder who alters the scope of an approved  
20 project or whose project costs exceed the allowable permit  
21 amount without first obtaining approval from the State  
22 Board shall be fined an amount not to exceed the sum of (i)  
23 the lesser of \$25,000 or 2% of the approved permit amount  
24 and (ii) in those cases where the approved permit amount is  
25 exceeded by more than \$1,000,000, an additional \$20,000 for  
26 each \$1,000,000, or fraction thereof, in excess of the

1 approved permit amount.

2 (3) A person who acquires major medical equipment or  
3 who establishes a category of service without first  
4 obtaining a permit or exemption, as the case may be, shall  
5 be fined an amount not to exceed \$10,000 for each such  
6 acquisition or category of service established plus an  
7 additional \$10,000 for each 30-day period, or fraction  
8 thereof, that the violation continues.

9 (4) A person who constructs, modifies, or establishes a  
10 health care facility without first obtaining a permit shall  
11 be fined an amount not to exceed \$25,000 plus an additional  
12 \$25,000 for each 30-day period, or fraction thereof, that  
13 the violation continues.

14 (5) A person who discontinues a health care facility or  
15 a category of service without first obtaining a permit  
16 shall be fined an amount not to exceed \$10,000 plus an  
17 additional \$10,000 for each 30-day period, or fraction  
18 thereof, that the violation continues. For purposes of this  
19 subparagraph (5), facilities licensed under the Nursing  
20 Home Care Act, with the exceptions of facilities operated  
21 by a county or Illinois Veterans Homes, are exempt from  
22 this permit requirement. However, facilities licensed  
23 under the Nursing Home Care Act must comply with Section  
24 3-423 of that Act and must provide the Board with 30-days'  
25 written notice of its intent to close.

26 (6) A person subject to this Act who fails to provide

1 information requested by the State Board or Agency within  
2 30 days of a formal written request shall be fined an  
3 amount not to exceed \$1,000 plus an additional \$1,000 for  
4 each 30-day period, or fraction thereof, that the  
5 information is not received by the State Board or Agency.

6 (c) Before imposing any fine authorized under this Section,  
7 the State Board shall afford the person or permit holder, as  
8 the case may be, an appearance before the State Board and an  
9 opportunity for a hearing before a hearing officer appointed by  
10 the State Board. The hearing shall be conducted in accordance  
11 with Section 10.

12 (d) All fines collected under this Act shall be transmitted  
13 to the State Treasurer, who shall deposit them into the  
14 Illinois Health Facilities Planning Fund.

15 (Source: P.A. 95-543, eff. 8-28-07.)

16 (Text of Section after amendment by P.A. 96-339)

17 (Section scheduled to be repealed on December 31, 2019)

18 Sec. 14.1. Denial of permit; other sanctions.

19 (a) The State Board may deny an application for a permit or  
20 may revoke or take other action as permitted by this Act with  
21 regard to a permit as the State Board deems appropriate,  
22 including the imposition of fines as set forth in this Section,  
23 for any one or a combination of the following:

24 (1) The acquisition of major medical equipment without  
25 a permit or in violation of the terms of a permit.



1           (2) The establishment, construction, or modification  
2 of a health care facility without a permit or in violation  
3 of the terms of a permit.

4           (3) The violation of any provision of this Act or any  
5 rule adopted under this Act.

6           (4) The failure, by any person subject to this Act, to  
7 provide information requested by the State Board or Agency  
8 within 30 days after a formal written request for the  
9 information.

10          (5) The failure to pay any fine imposed under this  
11 Section within 30 days of its imposition.

12          (a-5) For facilities licensed under ~~the Nursing Home Care~~  
13 ~~Act or~~ the MR/DD Community Care Act, no permit shall be denied  
14 on the basis of prior operator history, other than for actions  
15 specified ~~under item (2), (4), or (5) of Section 3-117 of the~~  
16 ~~Nursing Home Care Act or~~ under item (2), (4), or (5) of Section  
17 3-117 of the MR/DD Community Care Act. For facilities licensed  
18 under the Nursing Home Care Act, no permit shall be denied on  
19 the basis of prior operator history, other than for: (i)  
20 actions specified under item (2), (3), (4), (5), or (6) of  
21 Section 3-117 of the Nursing Home Care Act; (ii) actions  
22 specified under item (a)(6) of Section 3-119 of the Nursing  
23 Home Care Act; or (iii) actions within the preceding 5 years  
24 constituting a substantial and repeated failure to comply with  
25 the Nursing Home Care Act or the rules and regulations adopted  
26 by the Department under that Act. The State Board shall not

1 deny a permit on account of any action described in this  
2 subsection (a-5) without also considering all such actions in  
3 the light of all relevant information available to the State  
4 Board, including whether the permit is sought to substantially  
5 comply with a mandatory or voluntary plan of correction  
6 associated with any action described in this subsection (a-5).

7 (b) Persons shall be subject to fines as follows:

8 (1) A permit holder who fails to comply with the  
9 requirements of maintaining a valid permit shall be fined  
10 an amount not to exceed 1% of the approved permit amount  
11 plus an additional 1% of the approved permit amount for  
12 each 30-day period, or fraction thereof, that the violation  
13 continues.

14 (2) A permit holder who alters the scope of an approved  
15 project or whose project costs exceed the allowable permit  
16 amount without first obtaining approval from the State  
17 Board shall be fined an amount not to exceed the sum of (i)  
18 the lesser of \$25,000 or 2% of the approved permit amount  
19 and (ii) in those cases where the approved permit amount is  
20 exceeded by more than \$1,000,000, an additional \$20,000 for  
21 each \$1,000,000, or fraction thereof, in excess of the  
22 approved permit amount.

23 (3) A person who acquires major medical equipment or  
24 who establishes a category of service without first  
25 obtaining a permit or exemption, as the case may be, shall  
26 be fined an amount not to exceed \$10,000 for each such

1 acquisition or category of service established plus an  
2 additional \$10,000 for each 30-day period, or fraction  
3 thereof, that the violation continues.

4 (4) A person who constructs, modifies, or establishes a  
5 health care facility without first obtaining a permit shall  
6 be fined an amount not to exceed \$25,000 plus an additional  
7 \$25,000 for each 30-day period, or fraction thereof, that  
8 the violation continues.

9 (5) A person who discontinues a health care facility or  
10 a category of service without first obtaining a permit  
11 shall be fined an amount not to exceed \$10,000 plus an  
12 additional \$10,000 for each 30-day period, or fraction  
13 thereof, that the violation continues. For purposes of this  
14 subparagraph (5), facilities licensed under the Nursing  
15 Home Care Act or the MR/DD Community Care Act, with the  
16 exceptions of facilities operated by a county or Illinois  
17 Veterans Homes, are exempt from this permit requirement.  
18 However, facilities licensed under the Nursing Home Care  
19 Act or the MR/DD Community Care Act must comply with  
20 Section 3-423 of the Nursing Home Care Act or Section 3-423  
21 of the MR/DD Community Care Act and must provide the Board  
22 with 30-days' written notice of its intent to close.

23 (6) A person subject to this Act who fails to provide  
24 information requested by the State Board or Agency within  
25 30 days of a formal written request shall be fined an  
26 amount not to exceed \$1,000 plus an additional \$1,000 for

1 each 30-day period, or fraction thereof, that the  
2 information is not received by the State Board or Agency.

3 (c) Before imposing any fine authorized under this Section,  
4 the State Board shall afford the person or permit holder, as  
5 the case may be, an appearance before the State Board and an  
6 opportunity for a hearing before a hearing officer appointed by  
7 the State Board. The hearing shall be conducted in accordance  
8 with Section 10.

9 (d) All fines collected under this Act shall be transmitted  
10 to the State Treasurer, who shall deposit them into the  
11 Illinois Health Facilities Planning Fund.

12 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10.)

13 Section 22. The State Finance Act is amended by changing  
14 Section 5.589 as follows:

15 (30 ILCS 105/5.589)

16 Sec. 5.589. The Equity ~~Innovations~~ in Long-term Care  
17 Quality ~~Demonstration Grants~~ Fund.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 Section 23. The Innovations in Long-term Care Quality  
20 Grants Act is amended by changing the title of the Act and  
21 Sections 1, 5, 10, 15, and 20 as follows:

22 (30 ILCS 772/Act title)

1 An Act to create the Equity ~~Innovations~~ in Long-term Care  
2 Quality ~~Grants~~ Act.

3 (30 ILCS 772/1)

4 Sec. 1. Short title. This Act may be cited as the Equity  
5 ~~Innovations~~ in Long-term Care Quality ~~Grants~~ Act.

6 (Source: P.A. 92-784, eff. 8-6-02.)

7 (30 ILCS 772/5)

8 Sec. 5. Grant program. The Director of Public Health shall  
9 establish a long-term care grant program that brings  
10 ~~demonstrates~~ the best practices and innovation in ~~for~~ long-term  
11 care and services to residents of facilities licensed under the  
12 Nursing Home Care Act, and facilities that are in receivership,  
13 that are in areas the Director has determined are without  
14 access to high-quality nursing home care service, delivery, and  
15 housing. ~~The grants must fund programs that demonstrate~~  
16 ~~creativity in service provision through the scope of their~~  
17 ~~program or service.~~

18 (Source: P.A. 92-784, eff. 8-6-02.)

19 (30 ILCS 772/10)

20 Sec. 10. Eligibility for grant. Initial grants may be made  
21 only to assist residents of facilities licensed under the  
22 Nursing Home Care Act that are in areas the Director has  
23 determined are without access to high-quality nursing home care

1 and either:

2 (1) (A) are in receivership, are under the control of a  
3 temporary manager, or are being assisted by an independent  
4 consultant; and (B) have a receiver, temporary manager, or  
5 independent consultant who (i) has demonstrated experience  
6 in initiating or continuing best practices and innovation  
7 in nursing home care and services and (ii) has a commitment  
8 of long-term cooperation and assistance from facilities  
9 licensed under the Nursing Home Care Act that have a  
10 history of providing high-quality nursing home care and  
11 services that reflect best practices and innovation; or

12 (2) within the preceding 2 years, were acquired or  
13 opened by an owner who has demonstrated experience in  
14 initiating or continuing best practices and innovation in  
15 nursing home care and services and has a commitment of  
16 long-term cooperation and assistance from facilities  
17 licensed under the Nursing Home Care Act that have a  
18 history of providing high-quality nursing home care and  
19 services that reflect best practices and innovation.

20 The grant must be used to bring, or assist in bringing,  
21 high-quality nursing home care to the residents of the facility  
22 within a realistic time frame. Grants may be for more than one  
23 year.

24 A grant application submitted by a receiver and initially  
25 given to a receiver may subsequently be given to a new owner of  
26 the facility, if the owner:

1           (1) Agrees to comply with the requirements of the  
2           original grant and with the plan submitted by the receiver  
3           for continuing and increasing adherence to best practices  
4           in providing high-quality nursing home care, or submits  
5           another realistic plan that would achieve the same end as  
6           the receiver's plan.

7           (2) Has demonstrated experience in initiating or  
8           continuing best practices and innovation in nursing home  
9           care and services, and has a commitment of long-term  
10           cooperation and assistance (to be provided without  
11           compensation) from facilities licensed under the Nursing  
12           Home Care Act that have a history of providing high-quality  
13           nursing home care and services that reflect best practices  
14           and innovation. Grants may only be made to facilities  
15           licensed under the Nursing Home Care Act. Grants may only  
16           be made for projects that show innovations and measurable  
17           improvement in resident care, quality of life, use of  
18           technology, or customer satisfaction.

19           (Source: P.A. 92-784, eff. 8-6-02.)

20           (30 ILCS 772/15)

21           Sec. 15. Equity Innovations in Long-term Care Quality  
22 ~~Demonstration Grants~~ Fund.

23           (a) There is created in the State treasury a special fund  
24 to be known as the Equity Innovations in Long-term Care Quality  
25 ~~Demonstration Grants~~ Fund. Grants shall be funded using federal

1 civil monetary penalties collected and deposited into the Long  
2 Term Care Monitor/Receiver Fund established under the Nursing  
3 Home Care Act. Subject to appropriation, moneys in the Fund  
4 shall be used to improve the quality of nursing home care in  
5 areas without access to high-quality long-term care ~~for~~  
6 ~~demonstration grants to nursing homes~~. Interest earned on  
7 moneys in the Fund shall be deposited into the Fund.

8 (b) The Department may use no more than 10% of the moneys  
9 deposited into the Fund in any year to administer the program  
10 established by the Fund and to implement the requirements of  
11 the Nursing Home Care Act with respect to distressed  
12 facilities.

13 (Source: P.A. 92-784, eff. 8-6-02.)

14 (30 ILCS 772/20)

15 Sec. 20. Award of grants.

16 (a) Applications for grants must be made in a manner ~~on~~  
17 ~~forms~~ prescribed by the Director of Public Health by rule.  
18 Expenditures made in a manner with any grant, and the results  
19 therefrom, shall be included (if applicable) in the reports  
20 filed by the receiver with the court and shall be reported to  
21 the Department in a manner prescribed by rule and by the  
22 contract entered into by the grant recipient with the  
23 Department. An applicant for a grant shall submit to the  
24 Department, and (if applicable) to the court, a specific plan  
25 for continuing and increasing adherence to best practices in



1 providing high-quality nursing home care once the grant has  
2 ended.

3 (b) The applications must be reviewed,~~ranked,~~ and  
4 recommended by a commission composed of 5 representatives  
5 chosen from recommendations made by organizations representing  
6 long-term care facilities in Illinois, a citizen member from  
7 AARP, one representative from an ~~a disabled~~ advocacy  
8 organization for persons with disabilities, one representative  
9 from the statewide ombudsman organization, one representative  
10 from academia, one representative from a nursing home  
11 residents' advocacy organization, one representative from an  
12 organization with expertise in improving the access of persons  
13 in medically underserved areas to high-quality medical care, at  
14 least 2 experts in accounting or finance, the Director of  
15 Public Health, the Director of Aging, and one representative  
16 selected by the leader of each legislative caucus. With the  
17 exception of legislative members, members shall be appointed by  
18 the Director of Public Health. ~~The commission shall perform its~~  
19 ~~duties under this subsection (b) in consultation with the~~  
20 ~~medical school located at the Champaign-Urbana campus of the~~  
21 ~~University of Illinois.~~

22 ~~(c) The commission shall rank applications according to the~~  
23 ~~following criteria:~~

24 ~~(1) improvement in direct care to residents;~~

25 ~~(2) increased efficiency through the use of~~  
26 ~~technology;~~

1           ~~(3) improved quality of care through the use of~~  
2           ~~technology;~~

3           ~~(4) increased access and delivery of service;~~

4           ~~(5) enhancement of nursing staff training;~~

5           ~~(6) effectiveness of the project as a demonstration;~~

6           and

7           ~~(7) transferability of the project to other sites.~~

8           (c) ~~(d)~~ The Director shall award grants based on the  
9           recommendations of the commission and after a thorough review  
10          of the compliance history of the applicants ~~long term care~~  
11          facility.

12          (Source: P.A. 92-784, eff. 8-6-02.)

13          Section 25. The Nursing Home Care Act is amended by  
14          changing Sections 1-114.01, 1-117, 1-122, 1-129, 1-130, 2-104,  
15          2-106.1, 2-201.5, 2-201.6, 2-205, 3-103, 3-113, 3-117, 3-119,  
16          3-206, 3-206.01, 3-206.02, 3-212, 3-303, 3-303.2, 3-304.1,  
17          3-305, 3-306, 3-309, 3-310, 3-318, 3-402, 3-501, and 3-504 and  
18          by adding Sections 1-114.005, 1-120.3, 1-120.7, 1-128.5,  
19          1-132, 2-104.3, 2-114, 2-201.7, 3-120, 3-202.05, 3-202.2a,  
20          3-202.2b, 3-304.2, 3-808, 3-809, and 3-810 as follows:

21                 (210 ILCS 45/1-114.005 new)

22                 Sec. 1-114.005. High risk designation. "High risk  
23                 designation" means a violation of a provision of the Illinois  
24                 Administrative Code that has been identified by the Department

1 through rulemaking to be inherently necessary to protect the  
2 health, safety, and welfare of a resident.

3 (210 ILCS 45/1-114.01)

4 Sec. 1-114.01. Identified offender. "Identified offender"  
5 means a person who meets any of the following criteria:

6 (1) Has been convicted of, found guilty of, adjudicated  
7 delinquent for, found not guilty by reason of insanity for,  
8 or found unfit to stand trial for, any felony offense  
9 listed in Section 25 of the Health Care Worker Background  
10 Check Act, except for the following: (i) a felony offense  
11 described in Section 10-5 of the Nurse Practice Act; (ii) a  
12 felony offense described in Section 4, 5, 6, 8, or 17.02 of  
13 the Illinois Credit Card and Debit Card Act; (iii) a felony  
14 offense described in Section 5, 5.1, 5.2, 7, or 9 of the  
15 Cannabis Control Act; (iv) a felony offense described in  
16 Section 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the  
17 Illinois Controlled Substances Act; and (v) a felony  
18 offense described in the Methamphetamine Control and  
19 Community Protection Act.

20 (2) Has been convicted of, adjudicated delinquent for,  
21 found not guilty by reason of insanity for, or found unfit  
22 to stand trial for, any sex offense as defined in  
23 subsection (c) of Section 10 of the Sex Offender Management  
24 Board Act.

25 (3) Is any other resident as determined by the

1 ~~Department of State Police. who has been convicted of any~~  
2 ~~felony offense listed in Section 25 of the Health Care~~  
3 ~~Worker Background Check Act, is a registered sex offender,~~  
4 ~~or is serving a term of parole, mandatory supervised~~  
5 ~~release, or probation for a felony offense.~~

6 (Source: P.A. 94-163, eff. 7-11-05.)

7 (210 ILCS 45/1-117) (from Ch. 111 1/2, par. 4151-117)

8 Sec. 1-117. Neglect. "Neglect" means a facility's failure  
9 ~~in a facility to provide, or willful withholding of, adequate~~  
10 medical care, mental health treatment, psychiatric  
11 rehabilitation, personal care, or assistance with activities  
12 of daily living that is necessary to avoid physical harm,  
13 mental anguish, or mental illness of a resident ~~adequate~~  
14 ~~medical or personal care or maintenance, which failure results~~  
15 ~~in physical or mental injury to a resident or in the~~  
16 ~~deterioration of a resident's physical or mental condition.~~

17 (Source: P.A. 81-223.)

18 (210 ILCS 45/1-120.3 new)

19 Sec. 1-120.3. Provisional admission period. "Provisional  
20 admission period" means the time between the admission of an  
21 identified offender as defined in Section 1-114.01 and 3 days  
22 following the admitting facility's receipt of an Identified  
23 Offender Report and Recommendation in accordance with Section  
24 2-201.6.

1 (210 ILCS 45/1-120.7 new)

2 Sec. 1-120.7. Psychiatric services rehabilitation aide.

3 "Psychiatric services rehabilitation aide" means an individual  
4 employed by a long-term care facility to provide, for mentally  
5 ill residents, at a minimum, crisis intervention,  
6 rehabilitation, and assistance with activities of daily  
7 living.

8 (210 ILCS 45/1-122) (from Ch. 111 1/2, par. 4151-122)

9 Sec. 1-122. Resident. "Resident" means a person ~~residing in~~  
10 ~~and~~ receiving personal or medical care, including but not  
11 limited to mental health treatment, psychiatric  
12 rehabilitation, physical rehabilitation, and assistance with  
13 activities of daily living, care from a facility.

14 (Source: P.A. 81-223.)

15 (210 ILCS 45/1-128.5 new)

16 Sec. 1-128.5. Type "AA" violation. A "Type 'AA' violation"  
17 means a violation of this Act or of the rules promulgated  
18 thereunder which creates a condition or occurrence relating to  
19 the operation and maintenance of a facility that proximately  
20 caused a resident's death.

21 (210 ILCS 45/1-129) (from Ch. 111 1/2, par. 4151-129)

22 Sec. 1-129. Type "A" violation. A "Type 'A' violation"

1 means a violation of this Act or of the rules promulgated  
2 thereunder which creates a condition or occurrence relating to  
3 the operation and maintenance of a facility that (i) creates  
4 ~~presenting~~ a substantial probability that the risk of death or  
5 serious mental or physical harm to a resident will result  
6 therefrom or (ii) has resulted in actual physical or mental  
7 harm to a resident.

8 (Source: P.A. 81-223.)

9 (210 ILCS 45/1-130) (from Ch. 111 1/2, par. 4151-130)

10 Sec. 1-130. Type "B" violation. A "Type 'B' violation"  
11 means a violation of this Act or of the rules promulgated  
12 thereunder which creates a condition or occurrence relating to  
13 the operation and maintenance of a facility that is more likely  
14 than not to cause more than minimal physical or mental harm to  
15 ~~directly threatening to the health, safety or welfare of a~~  
16 resident.

17 (Source: P.A. 81-223.)

18 (210 ILCS 45/1-132 new)

19 Sec. 1-132. Type "C" violation. A "Type 'C' violation"  
20 means a violation of this Act or of the rules promulgated  
21 thereunder which creates a condition or occurrence relating to  
22 the operation and maintenance of a facility that creates a  
23 substantial probability that less than minimal physical or  
24 mental harm to a resident will result therefrom.

1 (210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

2 Sec. 2-104. (a) A resident shall be permitted to retain the  
3 services of his own personal physician at his own expense or  
4 under an individual or group plan of health insurance, or under  
5 any public or private assistance program providing such  
6 coverage. However, the facility is not liable for the  
7 negligence of any such personal physician. Every resident shall  
8 be permitted to obtain from his own physician or the physician  
9 attached to the facility complete and current information  
10 concerning his medical diagnosis, treatment and prognosis in  
11 terms and language the resident can reasonably be expected to  
12 understand. Every resident shall be permitted to participate in  
13 the planning of his total care and medical treatment to the  
14 extent that his condition permits. No resident shall be  
15 subjected to experimental research or treatment without first  
16 obtaining his informed, written consent. The conduct of any  
17 experimental research or treatment shall be authorized and  
18 monitored by an institutional review board ~~committee~~ appointed  
19 by the Director ~~administrator of the facility where such~~  
20 ~~research and treatment is conducted~~. The membership, operating  
21 procedures and review criteria for the institutional review  
22 board ~~committees~~ shall be prescribed under rules and  
23 regulations of the Department and shall comply with the  
24 requirements for institutional review boards established by  
25 the federal Food and Drug Administration. No person who has

1 received compensation in the prior 3 years from an entity that  
2 manufactures, distributes, or sells pharmaceuticals,  
3 biologics, or medical devices may serve on the institutional  
4 review board.

5 The institutional review board may approve only research or  
6 treatment that meets the standards of the federal Food and Drug  
7 Administration with respect to (i) the protection of human  
8 subjects and (ii) financial disclosure by clinical  
9 investigators. The Office of State Long Term Care Ombudsman and  
10 the State Protection and Advocacy organization shall be given  
11 an opportunity to comment on any request for approval before  
12 the board makes a decision. Those entities shall not be  
13 provided information that would allow a potential human subject  
14 to be individually identified, unless the board asks the  
15 Ombudsman for help in securing information from or about the  
16 resident. The board shall require frequent reporting of the  
17 progress of the approved research or treatment and its impact  
18 on residents, including immediate reporting of any adverse  
19 impact to the resident, the resident's representative, the  
20 Office of the State Long Term Care Ombudsman, and the State  
21 Protection and Advocacy organization. The board may not approve  
22 any retrospective study of the records of any resident about  
23 the safety or efficacy of any care or treatment if the resident  
24 was under the care of the proposed researcher or a business  
25 associate when the care or treatment was given, unless the  
26 study is under the control of a researcher without any business



1 relationship to any person or entity who could benefit from the  
2 findings of the study.

3 No facility shall permit experimental research or  
4 treatment to be conducted on a resident, or give access to any  
5 person or person's records for a retrospective study about the  
6 safety or efficacy of any care or treatment, without the prior  
7 written approval of the institutional review board. No nursing  
8 home administrator, or person licensed by the State to provide  
9 medical care or treatment to any person, may assist or  
10 participate in any experimental research on or treatment of a  
11 resident, including a retrospective study, that does not have  
12 the prior written approval of the board. Such conduct shall be  
13 grounds for professional discipline by the Department of  
14 Financial and Professional Regulation.

15 The institutional review board may exempt from ongoing  
16 review research or treatment initiated on a resident before the  
17 individual's admission to a facility and for which the board  
18 determines there is adequate ongoing oversight by another  
19 institutional review board. Nothing in this Section shall  
20 prevent a facility, any facility employee, or any other person  
21 from assisting or participating in any experimental research on  
22 or treatment of a resident, if the research or treatment began  
23 before the person's admission to a facility, until the board  
24 has reviewed the research or treatment and decided to grant or  
25 deny approval or to exempt the research or treatment from  
26 ongoing review.

1 (b) All medical treatment and procedures shall be  
2 administered as ordered by a physician. All new physician  
3 orders shall be reviewed by the facility's director of nursing  
4 or charge nurse designee within 24 hours after such orders have  
5 been issued to assure facility compliance with such orders.

6 According to rules adopted by the Department, every woman  
7 resident of child-bearing age shall receive routine  
8 obstetrical and gynecological evaluations as well as necessary  
9 prenatal care.

10 (c) Every resident shall be permitted to refuse medical  
11 treatment and to know the consequences of such action, unless  
12 such refusal would be harmful to the health and safety of  
13 others and such harm is documented by a physician in the  
14 resident's clinical record. The resident's refusal shall free  
15 the facility from the obligation to provide the treatment.

16 (d) Every resident, resident's guardian, or parent if the  
17 resident is a minor shall be permitted to inspect and copy all  
18 his clinical and other records concerning his care and  
19 maintenance kept by the facility or by his physician. The  
20 facility may charge a reasonable fee for duplication of a  
21 record.

22 (Source: P.A. 86-1013.)

23 (210 ILCS 45/2-104.3 new)

24 Sec. 2-104.3. Serious mental illness; rescreening.

25 (a) All persons admitted to a nursing home facility with a

1 diagnosis of serious mental illness who remain in the facility  
2 for a period of 90 days shall be re-screened by the Department  
3 of Human Services or its designee at the end of the 90-day  
4 period, at 6 months, and annually thereafter to assess their  
5 continuing need for nursing facility care and shall be advised  
6 of all other available care options.

7 (b) The Department of Human Services, by rule, shall  
8 provide for a prohibition on conflicts of interest for  
9 pre-admission screeners. The rule shall provide for waiver of  
10 those conflicts by the Department of Human Services if the  
11 Department of Human Services determines that a scarcity of  
12 qualified pre-admission screeners exists in a given community  
13 and that, absent a waiver of conflict, an insufficient number  
14 of pre-admission screeners would be available. If a conflict is  
15 waived, the pre-admission screener shall disclose the conflict  
16 of interest to the screened individual in the manner provided  
17 for by rule of the Department of Human Services. For the  
18 purposes of this subsection, a "conflict of interest" includes,  
19 but is not limited to, the existence of a professional or  
20 financial relationship between (i) a PAS-MH corporate or a  
21 PAS-MH agent performing the rescreening and (ii) a community  
22 provider or long-term care facility.

23 (210 ILCS 45/2-106.1)

24 Sec. 2-106.1. Drug treatment.

25 (a) A resident shall not be given unnecessary drugs. An

1 unnecessary drug is any drug used in an excessive dose,  
2 including in duplicative therapy; for excessive duration;  
3 without adequate monitoring; without adequate indications for  
4 its use; or in the presence of adverse consequences that  
5 indicate the drugs should be reduced or discontinued. The  
6 Department shall adopt, by rule, the standards for unnecessary  
7 drugs contained in interpretive guidelines issued by the United  
8 States Department of Health and Human Services for the purposes  
9 of administering Titles XVIII and XIX of the Social Security  
10 Act.

11 (b) Psychotropic medication shall not be prescribed  
12 without the informed consent of the resident, the resident's  
13 guardian, or other authorized representative. "Psychotropic  
14 medication" means medication that is used for or listed as used  
15 for antipsychotic, antidepressant, antimanic, or antianxiety  
16 behavior modification or behavior management purposes in the  
17 latest editions of the AMA Drug Evaluations or the Physician's  
18 Desk Reference. The Department shall adopt, by rule, a protocol  
19 specifying how informed consent for psychotropic medication  
20 may be obtained or refused. The protocol shall require, at a  
21 minimum, a discussion between (i) the resident or the  
22 resident's authorized representative and (ii) the resident's  
23 physician, a registered pharmacist (who is not a dispensing  
24 pharmacist for the facility where the resident lives), or a  
25 licensed nurse about the possible risks and benefits of a  
26 recommended medication and the use of standardized consent

1 forms designated by the Department. Each form developed by the  
2 Department (i) shall be written in plain language, (ii) shall  
3 be able to be downloaded from the Department's official  
4 website, (iii) shall include information specific to the  
5 psychotropic medication for which consent is being sought, and  
6 (iv) shall be used for every resident for whom psychotropic  
7 drugs are prescribed. In addition to creating those forms, the  
8 Department shall approve the use of any other informed consent  
9 forms that meet criteria developed by the Department.

10 In addition to any other penalty prescribed by law, a  
11 facility that is found to have violated this subsection, or the  
12 federal certification requirement that informed consent be  
13 obtained before administering a psychotropic medication, shall  
14 thereafter be required to obtain the signatures of 2 licensed  
15 health care professionals on every form purporting to give  
16 informed consent for the administration of a psychotropic  
17 medication, certifying the personal knowledge of each health  
18 care professional that the consent was obtained in compliance  
19 with the requirements of this subsection.

20 (c) The requirements of this Section are intended to  
21 control in a conflict with the requirements of Sections 2-102  
22 and 2-107.2 of the Mental Health and Developmental Disabilities  
23 Code with respect to the administration of psychotropic  
24 medication.

25 (Source: P.A. 95-331, eff. 8-21-07.)

1 (210 ILCS 45/2-114 new)

2 Sec. 2-114. Unlawful discrimination. No resident shall be  
3 subjected to unlawful discrimination as defined in Section  
4 1-103 of the Illinois Human Rights Act by any owner, licensee,  
5 administrator, employee, or agent of a facility. Unlawful  
6 discrimination does not include an action by any owner,  
7 licensee, administrator, employee, or agent of a facility that  
8 is required by this Act or rules adopted under this Act.

9 (210 ILCS 45/2-201.5)

10 Sec. 2-201.5. Screening prior to admission.

11 (a) All persons age 18 or older seeking admission to a  
12 nursing facility must be screened to determine the need for  
13 nursing facility services prior to being admitted, regardless  
14 of income, assets, or funding source. In addition, any person  
15 who seeks to become eligible for medical assistance from the  
16 Medical Assistance Program under the Illinois Public Aid Code  
17 to pay for long term care services while residing in a facility  
18 must be screened prior to receiving those benefits. Screening  
19 for nursing facility services shall be administered through  
20 procedures established by administrative rule. Screening may  
21 be done by agencies other than the Department as established by  
22 administrative rule. This Section applies on and after July 1,  
23 1996. No later than October 1, 2010, the Department of  
24 Healthcare and Family Services, in collaboration with the  
25 Department on Aging, the Department of Human Services, and the

1 Department of Public Health, shall file administrative rules  
2 providing for the gathering, during the screening process, of  
3 information relevant to determining each person's potential  
4 for placing other residents, employees, and visitors at risk of  
5 harm.

6 (a-1) Any screening performed pursuant to subsection (a) of  
7 this Section shall include a determination of whether any  
8 person is being considered for admission to a nursing facility  
9 due to a need for mental health services. For a person who  
10 needs mental health services, the screening shall also include  
11 an evaluation of whether there is permanent supportive housing,  
12 or an array of community mental health services, including but  
13 not limited to supported housing, assertive community  
14 treatment, and peer support services, that would enable the  
15 person to live in the community. The person shall be told about  
16 the existence of any such services that would enable the person  
17 to live safely and humanely and about available appropriate  
18 nursing home services that would enable the person to live  
19 safely and humanely, and the person shall be given the  
20 assistance necessary to avail himself or herself of any  
21 available services.

22 (a-2) Pre-screening for persons with a serious mental  
23 illness shall be performed by a psychiatrist, a psychologist, a  
24 registered nurse certified in psychiatric nursing, a licensed  
25 clinical professional counselor, or a licensed clinical social  
26 worker, who is competent to (i) perform a clinical assessment

1 of the individual, (ii) certify a diagnosis, (iii) make a  
2 determination about the individual's current need for  
3 treatment, including substance abuse treatment, and recommend  
4 specific treatment, and (iv) determine whether a facility or a  
5 community-based program is able to meet the needs of the  
6 individual.

7 For any person entering a nursing facility, the  
8 pre-screening agent shall make specific recommendations about  
9 what care and services the individual needs to receive,  
10 beginning at admission, to attain or maintain the individual's  
11 highest level of independent functioning and to live in the  
12 most integrated setting appropriate for his or her physical and  
13 personal care and developmental and mental health needs. These  
14 recommendations shall be revised as appropriate by the  
15 pre-screening or re-screening agent based on the results of  
16 resident review and in response to changes in the resident's  
17 wishes, needs, and interest in transition.

18 Upon the person entering the nursing facility, the  
19 Department of Human Services or its designee shall assist the  
20 person in establishing a relationship with a community mental  
21 health agency or other appropriate agencies in order to (i)  
22 promote the person's transition to independent living and (ii)  
23 support the person's progress in meeting individual goals.

24 (a-3) The Department of Human Services, by rule, shall  
25 provide for a prohibition on conflicts of interest for  
26 pre-admission screeners. The rule shall provide for waiver of



1 those conflicts by the Department of Human Services if the  
2 Department of Human Services determines that a scarcity of  
3 qualified pre-admission screeners exists in a given community  
4 and that, absent a waiver of conflicts, an insufficient number  
5 of pre-admission screeners would be available. If a conflict is  
6 waived, the pre-admission screener shall disclose the conflict  
7 of interest to the screened individual in the manner provided  
8 for by rule of the Department of Human Services. For the  
9 purposes of this subsection, a "conflict of interest" includes,  
10 but is not limited to, the existence of a professional or  
11 financial relationship between (i) a PAS-MH corporate or a  
12 PAS-MH agent and (ii) a community provider or long-term care  
13 facility.

14 (b) In addition to the screening required by subsection  
15 (a), a facility, except for those licensed as long term care  
16 for under age 22 facilities, shall, within 24 hours after  
17 admission, request a criminal history background check  
18 pursuant to the Uniform Conviction Information Act for all  
19 persons age 18 or older seeking admission to the facility,  
20 unless a background check was initiated by a hospital pursuant  
21 to subsection (d) of Section 6.09 of the Hospital Licensing  
22 Act. Background checks conducted pursuant to this Section shall  
23 be based on the resident's name, date of birth, and other  
24 identifiers as required by the Department of State Police. If  
25 the results of the background check are inconclusive, the  
26 facility shall initiate a fingerprint-based check, unless the

1 fingerprint check is waived by the Director of Public Health  
2 based on verification by the facility that the resident is  
3 completely immobile or that the resident meets other criteria  
4 related to the resident's health or lack of potential risk  
5 which may be established by Departmental rule. A waiver issued  
6 pursuant to this Section shall be valid only while the resident  
7 is immobile or while the criteria supporting the waiver exist.  
8 The facility shall provide for or arrange for any required  
9 fingerprint-based checks to be taken on the premises of the  
10 facility. If a fingerprint-based check is required, the  
11 facility shall arrange for it to be conducted in a manner that  
12 is respectful of the resident's dignity and that minimizes any  
13 emotional or physical hardship to the resident.

14 ~~A facility, except for those licensed as long term care for~~  
15 ~~under age 22 facilities, shall, within 60 days after the~~  
16 ~~effective date of this amendatory Act of the 94th General~~  
17 ~~Assembly, request a criminal history background check pursuant~~  
18 ~~to the Uniform Conviction Information Act for all persons who~~  
19 ~~are residents of the facility on the effective date of this~~  
20 ~~amendatory Act of the 94th General Assembly. The facility shall~~  
21 ~~review the results of the criminal history background checks~~  
22 ~~immediately upon receipt thereof. If the results of the~~  
23 ~~background check are inconclusive, the facility shall initiate~~  
24 ~~a fingerprint based check unless the fingerprint based check~~  
25 ~~is waived by the Director of Public Health based on~~  
26 ~~verification by the facility that the resident is completely~~

~~immobile or that the resident meets other criteria related to the resident's health or lack of potential risk which may be established by Departmental rule. A waiver issued pursuant to this Section shall be valid only while the resident is immobile or while the criteria supporting the waiver exist. The facility shall provide for or arrange for any required fingerprint based checks to be taken on the premises of the facility. If a fingerprint based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident.~~

(c) If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01, the facility shall do the following:

(1) Immediately notify the Department of State Police, in the form and manner required by the Department of State Police, in collaboration with the Department of Public Health, that the resident is an identified offender.

(2) Within 72 hours, arrange for a fingerprint-based criminal history record inquiry to be requested on the identified offender resident. The inquiry shall be based on the subject's name, sex, race, date of birth, fingerprint images, and other identifiers required by the Department of State Police. The inquiry shall be processed through the files of the Department of State Police and the Federal

1 Bureau of Investigation to locate any criminal history  
2 record information that may exist regarding the subject.

3 The Federal Bureau of Investigation shall furnish to the  
4 Department of State Police, pursuant to an inquiry under  
5 this paragraph (2), any criminal history record  
6 information contained in its files.

7 The facility shall comply with all applicable provisions  
8 contained in the Uniform Conviction Information Act.

9 All name-based and fingerprint-based criminal history  
10 record inquiries shall be submitted to the Department of State  
11 Police electronically in the form and manner prescribed by the  
12 Department of State Police. The Department of State Police may  
13 charge the facility a fee for processing name-based and  
14 fingerprint-based criminal history record inquiries. The fee  
15 shall be deposited into the State Police Services Fund. The fee  
16 shall not exceed the actual cost of processing the inquiry. ~~the~~  
17 facility shall immediately fax the resident's name and criminal  
18 history information to the Illinois Department of Public  
19 Health, which shall conduct a Criminal History Analysis  
20 pursuant to Section 2-201.6. The Criminal History Analysis  
21 shall be conducted independently of the Illinois Department of  
22 Public Health's Office of Healthcare Regulation. The Office of  
23 Healthcare Regulation shall have no involvement with the  
24 process of reviewing or analyzing the criminal history of  
25 identified offenders.

26 (d) (Blank). ~~The Illinois Department of Public Health shall~~

1 ~~keep a continuing record of all residents determined to be~~  
2 ~~identified offenders under Section 1-114.01 and shall report~~  
3 ~~the number of identified offender residents annually to the~~  
4 ~~General Assembly.~~

5 (e) The Department shall develop and maintain a  
6 de-identified database of residents who have injured facility  
7 staff, facility visitors, or other residents, and the attendant  
8 circumstances, solely for the purposes of evaluating and  
9 improving resident pre-screening and assessment procedures  
10 (including the Criminal History Report prepared under Section  
11 2-201.6) and the adequacy of Department requirements  
12 concerning the provision of care and services to residents. A  
13 resident shall not be listed in the database until a Department  
14 survey confirms the accuracy of the listing. The names of  
15 persons listed in the database and information that would allow  
16 them to be individually identified shall not be made public.  
17 Neither the Department nor any other agency of State government  
18 may use information in the database to take any action against  
19 any individual, licensee, or other entity, unless the  
20 Department or agency receives the information independent of  
21 this subsection (e). All information collected, maintained, or  
22 developed under the authority of this subsection (e) for the  
23 purposes of the database maintained under this subsection (e)  
24 shall be treated in the same manner as information that is  
25 subject to Part 21 of Article VIII of the Code of Civil  
26 Procedure.

1 (Source: P.A. 94-163, eff. 7-11-05; 94-752, eff. 5-10-06.)

2 (210 ILCS 45/2-201.6)

3 Sec. 2-201.6. Criminal History Report Analysis.

4 (a) The Department of State Police shall prepare  
5 ~~immediately commence~~ a Criminal History Report Analysis when it  
6 receives information, through the criminal history background  
7 check required pursuant to subsection (d) of Section 6.09 of  
8 the Hospital Licensing Act or subsection (c) ~~(b)~~ of Section  
9 2-201.5, or through any other means, that a resident of a  
10 facility is an identified offender.

11 (b) The Department of State Police shall complete the  
12 Criminal History Report within 10 business ~~The Department shall~~  
13 ~~complete the Criminal History Analysis as soon as practicable,~~  
14 ~~but not later than 14~~ days after receiving information under  
15 subsection (a) that a resident is an identified offender  
16 ~~receiving notice from the facility under subsection (a).~~

17 (c) The Criminal History Report Analysis shall include, but  
18 not be limited to, ~~all of~~ the following:

19 (1) (Blank). ~~Consultation with the identified~~  
20 ~~offender's assigned parole agent or probation officer, if~~  
21 ~~applicable.~~

22 (2) (Blank). ~~Consultation with the convicting~~  
23 ~~prosecutor's office.~~

24 (3) (Blank). ~~A review of the statement of facts, police~~  
25 ~~reports, and victim impact statements, if available.~~

1           (3.5) Copies of the identified offender's parole,  
2           mandatory supervised release, or probation orders.

3           (4) An interview with the identified offender.

4           (5) (Blank). ~~Consultation with the facility~~  
5           ~~administrator or facility medical director, or both,~~  
6           ~~regarding the physical condition of the identified~~  
7           ~~offender.~~

8           (6) A detailed summary ~~Consideration~~ of the entire  
9           criminal history of the offender, including arrests,  
10           convictions, and the date of the identified offender's last  
11           conviction relative to the date of admission to a long-term  
12           care facility.

13           (7) If the identified offender is a convicted or  
14           registered sex offender, a review of any and all sex  
15           offender evaluations conducted on that offender. If there  
16           is no sex offender evaluation available, the Department of  
17           State Police shall arrange, through the Department of  
18           Public Health, ~~provide~~ for a sex offender evaluation to be  
19           conducted on the identified offender. If the convicted or  
20           registered sex offender is under supervision by the  
21           Illinois Department of Corrections or a county probation  
22           department, the sex offender evaluation shall be arranged  
23           by and at the expense of the supervising agency. All  
24           evaluations conducted on convicted or registered sex  
25           offenders under this Act shall be conducted by sex offender  
26           evaluators approved by the Sex Offender Management Board.

1           (d) The Department of State Police shall provide the  
2 ~~prepare a~~ Criminal History ~~Analysis~~ Report to a licensed  
3 forensic psychologist. After (i) consideration of the Criminal  
4 History Report, (ii) consultation with the facility  
5 administrator or the facility medical director, or both,  
6 regarding the mental and physical condition of the identified  
7 offender, and (iii) reviewing the facility's file on the  
8 identified offender, including all incident reports, all  
9 information regarding medication and medication compliance,  
10 and all information regarding previous discharges or transfers  
11 from other facilities, the licensed forensic psychologist  
12 shall prepare an Identified Offender Report and  
13 Recommendation. The Identified Offender Report and  
14 Recommendation based on the analysis conducted pursuant to  
15 ~~subsection (c). The Report shall include a summary of the Risk~~  
16 ~~Analysis and~~ shall detail whether and to what extent the  
17 identified offender's criminal history necessitates the  
18 implementation of security measures within the long-term care  
19 facility. If the identified offender is a convicted or  
20 registered sex offender or if the Identified Offender Report  
21 and Recommendation ~~Department's Criminal History Analysis~~  
22 reveals that the identified offender poses a significant risk  
23 of harm to others within the facility, the offender shall be  
24 required to have his or her own room within the facility.

25           (e) The licensed forensic psychologist shall complete the  
26 Identified Offender Report and Recommendation within 14



1 business days after receiving the Criminal History Analysis  
2 Report and shall promptly provide the Identified Offender  
3 Report and Recommendation to the Department of State Police,  
4 which shall provide the Identified Offender Report and  
5 Recommendation ~~be provided~~ to the following:

6 (1) The long-term care facility within which the  
7 identified offender resides.

8 (2) The Chief of Police of the municipality in which  
9 the facility is located.

10 (3) The State of Illinois Long Term Care Ombudsman.

11 (4) The Department of Public Health.

12 (e-5) The Department of Public Health shall keep a  
13 continuing record of all residents determined to be identified  
14 offenders as defined in Section 1-114.01 and shall report the  
15 number of identified offender residents annually to the General  
16 Assembly.

17 (f) The facility shall incorporate the Identified Offender  
18 Report and Recommendation ~~Criminal History Analysis Report~~  
19 into the identified offender's care plan created pursuant to 42  
20 CFR 483.20.

21 (g) If, based on the Identified Offender Report and  
22 Recommendation ~~Criminal History Analysis Report~~, a facility  
23 determines that it cannot manage the identified offender  
24 resident safely within the facility, it shall commence  
25 involuntary transfer or discharge proceedings pursuant to  
26 Section 3-402.

1 (h) Except for willful and wanton misconduct, any person  
2 authorized to participate in the development of a Criminal  
3 History ~~Analysis or Criminal History Analysis~~ Report or  
4 Identified Offender Report and Recommendation is immune from  
5 criminal or civil liability for any acts or omissions as the  
6 result of his or her good faith effort to comply with this  
7 Section.

8 (Source: P.A. 94-752, eff. 5-10-06.)

9 (210 ILCS 45/2-201.7 new)

10 Sec. 2-201.7. Expanded criminal history background check  
11 pilot program.

12 (a) The purpose of this Section is to establish a pilot  
13 program based in Cook and Will counties in which an expanded  
14 criminal history background check screening process will be  
15 utilized to better identify residents of licensed long term  
16 care facilities who, because of their criminal histories, may  
17 pose a risk to other vulnerable residents.

18 (b) In this Section, "mixed population facility" means a  
19 facility that has more than 25 residents with a diagnosis of  
20 serious mental illness and residents 65 years of age or older.

21 (c) Every mixed population facility located in Cook County  
22 or Will County shall participate in the pilot program and shall  
23 employ expanded criminal history background check screening  
24 procedures for all residents admitted to the facility who are  
25 at least 18 years of age but less than 65 years of age. Under

1 the pilot program, criminal history background checks required  
2 under this Act shall employ fingerprint-based criminal history  
3 record inquiries or comparably comprehensive name-based  
4 criminal history background checks. Fingerprint-based criminal  
5 history record inquiries shall be conducted pursuant to  
6 subsection (c-2) of Section 2-201.5. A Criminal History Report  
7 and an Identified Offender Report and Recommendation shall be  
8 completed pursuant to Section 2-201.6 if the results of the  
9 expanded criminal history background check reveal that a  
10 resident is an identified offender as defined in Section  
11 1-114.01.

12 (d) If an expanded criminal history background check  
13 reveals that a resident is an identified offender as defined in  
14 Section 1-114.01, the facility shall be notified within 72  
15 hours.

16 (e) The cost of the expanded criminal history background  
17 checks conducted pursuant to the pilot program shall not exceed  
18 \$50 per resident and shall be paid by the facility. The  
19 Department of State Police shall implement all potential  
20 measures to minimize the cost of the expanded criminal history  
21 background checks to the participating long term care  
22 facilities.

23 (f) The pilot program shall run for a period of one year  
24 after the effective date of this amendatory Act of the 96th  
25 General Assembly. Promptly after the end of that one-year  
26 period, the Department shall report the results of the pilot

1 program to the General Assembly.

2 (210 ILCS 45/2-205) (from Ch. 111 1/2, par. 4152-205)

3 Sec. 2-205. The following information is subject to  
4 disclosure to the public from the Department or the Department  
5 of Healthcare and Family Services:

6 (1) Information submitted under Sections 3-103 and  
7 3-207 except information concerning the remuneration of  
8 personnel licensed, registered, or certified by the  
9 Department of Professional Regulation and monthly charges  
10 for an individual private resident;

11 (2) Records of license and certification inspections,  
12 surveys, and evaluations of facilities, other reports of  
13 inspections, surveys, and evaluations of resident care,  
14 whether a facility has been designated a distressed  
15 facility, and the basis for the designation, and reports  
16 concerning a facility prepared pursuant to Titles XVIII and  
17 XIX of the Social Security Act, subject to the provisions  
18 of the Social Security Act;

19 (3) Cost and reimbursement reports submitted by a  
20 facility under Section 3-208, reports of audits of  
21 facilities, and other public records concerning costs  
22 incurred by, revenues received by, and reimbursement of  
23 facilities; and

24 (4) Complaints filed against a facility and complaint  
25 investigation reports, except that a complaint or

1 complaint investigation report shall not be disclosed to a  
2 person other than the complainant or complainant's  
3 representative before it is disclosed to a facility under  
4 Section 3-702, and, further, except that a complainant or  
5 resident's name shall not be disclosed except under Section  
6 3-702.

7 The Department shall disclose information under this  
8 Section in accordance with provisions for inspection and  
9 copying of public records required by the Freedom of  
10 Information Act.

11 However, the disclosure of information described in  
12 subsection (1) shall not be restricted by any provision of the  
13 Freedom of Information Act.

14 (Source: P.A. 95-331, eff. 8-21-07.)

15 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

16 Sec. 3-103. The procedure for obtaining a valid license  
17 shall be as follows:

18 (1) Application to operate a facility shall be made to  
19 the Department on forms furnished by the Department.

20 (2) All license applications shall be accompanied with  
21 an application fee. The fee for an annual license shall be  
22 \$1,990 ~~\$995~~. Facilities that pay a fee or assessment  
23 pursuant to Article V-C of the Illinois Public Aid Code  
24 shall be exempt from the license fee imposed under this  
25 item (2). The fee for a 2-year license shall be double the

1 fee for the annual license set forth in the preceding  
2 sentence. The fees collected shall be deposited with the  
3 State Treasurer into the Long Term Care Monitor/Receiver  
4 Fund, which has been created as a special fund in the State  
5 treasury. This special fund is to be used by the Department  
6 for expenses related to the appointment of monitors and  
7 receivers as contained in Sections 3-501 through 3-517 of  
8 this Act, for the enforcement of this Act, and for  
9 implementation of the Abuse Prevention Review Team Act. The  
10 Department may reduce or waive a penalty pursuant to  
11 Section 3-308 only if that action will not threaten the  
12 ability of the Department to meet the expenses required to  
13 be met by the Long Term Care Monitor/Receiver Fund. At the  
14 end of each fiscal year, any funds in excess of \$1,000,000  
15 held in the Long Term Care Monitor/Receiver Fund shall be  
16 deposited in the State's General Revenue Fund. The  
17 application shall be under oath and the submission of false  
18 or misleading information shall be a Class A misdemeanor.  
19 The application shall contain the following information:

20 (a) The name and address of the applicant if an  
21 individual, and if a firm, partnership, or  
22 association, of every member thereof, and in the case  
23 of a corporation, the name and address thereof and of  
24 its officers and its registered agent, and in the case  
25 of a unit of local government, the name and address of  
26 its chief executive officer;

1           (b) The name and location of the facility for which  
2           a license is sought;

3           (c) The name of the person or persons under whose  
4           management or supervision the facility will be  
5           conducted;

6           (d) The number and type of residents for which  
7           maintenance, personal care, or nursing is to be  
8           provided; and

9           (e) Such information relating to the number,  
10          experience, and training of the employees of the  
11          facility, any management agreements for the operation  
12          of the facility, and of the moral character of the  
13          applicant and employees as the Department may deem  
14          necessary.

15          (3) Each initial application shall be accompanied by a  
16          financial statement setting forth the financial condition  
17          of the applicant and by a statement from the unit of local  
18          government having zoning jurisdiction over the facility's  
19          location stating that the location of the facility is not  
20          in violation of a zoning ordinance. An initial application  
21          for a new facility shall be accompanied by a permit as  
22          required by the "Illinois Health Facilities Planning Act".  
23          After the application is approved, the applicant shall  
24          advise the Department every 6 months of any changes in the  
25          information originally provided in the application.

26          (4) Other information necessary to determine the

1 identity and qualifications of an applicant to operate a  
2 facility in accordance with this Act shall be included in  
3 the application as required by the Department in  
4 regulations.

5 (Source: P.A. 96-758, eff. 8-25-09.)

6 (210 ILCS 45/3-113) (from Ch. 111 1/2, par. 4153-113)

7 Sec. 3-113. The license granted to the transferee shall be  
8 subject to the plan of correction submitted by the previous  
9 owner and approved by the Department and any conditions  
10 contained in a conditional license issued to the previous  
11 owner. If there are outstanding violations and no approved plan  
12 of correction has been implemented, the Department may issue a  
13 conditional license and plan of correction as provided in  
14 Sections 3-311 through 3-317. The license granted to a  
15 transferee for a facility that is in receivership shall be  
16 subject to any contractual obligations assumed by a grantee  
17 under the Equity in Long-term Care Quality Act and to the plan  
18 submitted by the receiver for continuing and increasing  
19 adherence to best practices in providing high-quality nursing  
20 home care, unless the grant is repaid, under conditions to be  
21 determined by rule by the Department in its administration of  
22 the Equity in Long-term Care Quality Act.

23 (Source: P.A. 91-357, eff. 7-29-99.)

24 (210 ILCS 45/3-117) (from Ch. 111 1/2, par. 4153-117)



1           Sec. 3-117. An application for a license may be denied for  
2 any of the following reasons:

3           (1) Failure to meet any of the minimum standards set  
4 forth by this Act or by rules and regulations promulgated  
5 by the Department under this Act.

6           (2) Conviction of the applicant, or if the applicant is  
7 a firm, partnership or association, of any of its members,  
8 or if a corporation, the conviction of the corporation or  
9 any of its officers or stockholders, or of the person  
10 designated to manage or supervise the facility, of a  
11 felony, or of 2 or more misdemeanors involving moral  
12 turpitude, during the previous 5 years as shown by a  
13 certified copy of the record of the court of conviction.

14           (3) Personnel insufficient in number or unqualified by  
15 training or experience to properly care for the proposed  
16 number and type of residents.

17           (4) Insufficient financial or other resources to  
18 operate and conduct the facility in accordance with  
19 standards promulgated by the Department under this Act and  
20 with contractual obligations assumed by a recipient of a  
21 grant under the Equity in Long-term Care Quality Act and  
22 the plan (if applicable) submitted by a grantee for  
23 continuing and increasing adherence to best practices in  
24 providing high-quality nursing home care.

25           (5) Revocation of a facility license during the  
26 previous 5 years, if such prior license was issued to the

1 individual applicant, a controlling owner or controlling  
2 combination of owners of the applicant; or any affiliate of  
3 the individual applicant or controlling owner of the  
4 applicant and such individual applicant, controlling owner  
5 of the applicant or affiliate of the applicant was a  
6 controlling owner of the prior license; provided, however,  
7 that the denial of an application for a license pursuant to  
8 this subsection must be supported by evidence that such  
9 prior revocation renders the applicant unqualified or  
10 incapable of meeting or maintaining a facility in  
11 accordance with the standards and rules promulgated by the  
12 Department under this Act.

13 (6) That the facility is not under the direct  
14 supervision of a full-time administrator, as defined by  
15 regulation, who is licensed, if required, under the Nursing  
16 Home Administrators Licensing and Disciplinary Act.

17 (7) That the facility is in receivership and the  
18 proposed licensee has not submitted a specific detailed  
19 plan to bring the facility into compliance with the  
20 requirements of this Act and with federal certification  
21 requirements, if the facility is certified, and to keep the  
22 facility in such compliance.

23 (Source: P.A. 95-331, eff. 8-21-07.)

24 (210 ILCS 45/3-119) (from Ch. 111 1/2, par. 4153-119)

25 Sec. 3-119. (a) The Department, after notice to the

1 applicant or licensee, may suspend, revoke or refuse to renew a  
2 license in any case in which the Department finds any of the  
3 following:

4 (1) There has been a substantial failure to comply with  
5 this Act or the rules and regulations promulgated by the  
6 Department under this Act. A substantial failure by a  
7 facility shall include, but not be limited to, any of the  
8 following:

9 (A) termination of Medicare or Medicaid  
10 certification by the Centers for Medicare and Medicaid  
11 Services; or

12 (B) a failure by the facility to pay any fine  
13 assessed under this Act after the Department has sent  
14 to the facility at least 2 notices of assessment that  
15 include a schedule of payments as determined by the  
16 Department, taking into account extenuating  
17 circumstances and financial hardships of the facility.

18 (2) Conviction of the licensee, or of the person  
19 designated to manage or supervise the facility, of a  
20 felony, or of 2 or more misdemeanors involving moral  
21 turpitude, during the previous 5 years as shown by a  
22 certified copy of the record of the court of conviction.

23 (3) Personnel is insufficient in number or unqualified  
24 by training or experience to properly care for the number  
25 and type of residents served by the facility.

26 (4) Financial or other resources are insufficient to

1           conduct and operate the facility in accordance with  
2           standards promulgated by the Department under this Act.

3           (5) The facility is not under the direct supervision of  
4           a full-time administrator, as defined by regulation, who is  
5           licensed, if required, under the Nursing Home  
6           Administrators Licensing and Disciplinary Act.

7           (6) The facility has committed 2 Type "AA" violations  
8           within a 2-year period.

9           (b) Notice under this Section shall include a clear and  
10          concise statement of the violations on which the nonrenewal or  
11          revocation is based, the statute or rule violated and notice of  
12          the opportunity for a hearing under Section 3-703.

13          (c) If a facility desires to contest the nonrenewal or  
14          revocation of a license, the facility shall, within 10 days  
15          after receipt of notice under subsection (b) of this Section,  
16          notify the Department in writing of its request for a hearing  
17          under Section 3-703. Upon receipt of the request the Department  
18          shall send notice to the facility and hold a hearing as  
19          provided under Section 3-703.

20          (d) The effective date of nonrenewal or revocation of a  
21          license by the Department shall be any of the following:

22                 (1) Until otherwise ordered by the circuit court,  
23                 revocation is effective on the date set by the Department  
24                 in the notice of revocation, or upon final action after  
25                 hearing under Section 3-703, whichever is later.

26                 (2) Until otherwise ordered by the circuit court,

1 nonrenewal is effective on the date of expiration of any  
2 existing license, or upon final action after hearing under  
3 Section 3-703, whichever is later; however, a license shall  
4 not be deemed to have expired if the Department fails to  
5 timely respond to a timely request for renewal under this  
6 Act or for a hearing to contest nonrenewal under paragraph  
7 (c).

8 (3) The Department may extend the effective date of  
9 license revocation or expiration in any case in order to  
10 permit orderly removal and relocation of residents.

11 The Department may refuse to issue or may suspend the  
12 license of any person who fails to file a return, or to pay the  
13 tax, penalty or interest shown in a filed return, or to pay any  
14 final assessment of tax, penalty or interest, as required by  
15 any tax Act administered by the Illinois Department of Revenue,  
16 until such time as the requirements of any such tax Act are  
17 satisfied.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 (210 ILCS 45/3-120 new)

20 Sec. 3-120. Certification of behavioral management units.

21 (a) No later than January 1, 2011, the Department shall  
22 file with the Joint Committee on Administrative Rules, pursuant  
23 to the Illinois Administrative Procedure Act, proposed rules or  
24 proposed amendments to existing rules to certify distinct  
25 self-contained units within existing nursing homes for the

1 behavioral management of persons with a high risk of  
2 aggression. The purpose of the certification program is to  
3 ensure that the safety of residents, employees, and the public  
4 is preserved.

5 (b) The Department's rules shall, at a minimum, provide for  
6 the following:

7 (1) A security and safety assessment, completed before  
8 admission to a certified unit if an Identified Offender  
9 Report and Recommendation or other criminal risk analysis  
10 has not been completed, to identify existing or potential  
11 residents at risk of committing violent acts and determine  
12 appropriate preventive action to be taken. The assessment  
13 shall include, but need not be limited to, (i) a measure of  
14 the frequency of, (ii) an identification of the  
15 precipitating factors for, and (iii) the consequences of,  
16 violent acts. The security and safety assessment shall be  
17 in addition to any risk-of-harm assessment performed by a  
18 PAS screener, but may use the results of this or any other  
19 assessment. The security and safety assessment shall be  
20 completed by the same licensed forensic psychologist who  
21 prepares Identified Offender Reports and Recommendations  
22 for identified offenders.

23 (2) Development of an individualized treatment and  
24 behavior management plan for each resident to reduce  
25 overall and specific risks.

26 (3) Room selection and appropriateness of roommate

1 assignment.

2 (4) Protection of residents, employees, and members of  
3 the public from aggression by residents.

4 (5) Supervision and monitoring.

5 (6) Staffing levels.

6 (7) Quality assurance and improvement.

7 (8) Staff training, conducted during orientation and  
8 periodically thereafter, specific to each job description  
9 covering the following topics as appropriate:

10 (A) The violence escalation cycle.

11 (B) Violence predicting factors.

12 (C) Obtaining a history from a resident with a  
13 history of violent behavior.

14 (D) Verbal and physical techniques to de-escalate  
15 and minimize violent behavior.

16 (E) Strategies to avoid physical harm.

17 (F) Containment techniques, as permitted and  
18 governed by law.

19 (G) Appropriate treatment to reduce violent  
20 behavior.

21 (H) Documenting and reporting incidents of  
22 violence.

23 (I) The process whereby employees affected by a  
24 violent act may be debriefed or calmed down and the  
25 tension of the situation may be reduced.

26 (J) Any resources available to employees for

1             coping with violence.

2             (K) Any other topic deemed appropriate based on job  
3             description and the needs of this population.

4             (9) Elimination or reduction of environmental factors  
5             that affect resident safety.

6             (10) Periodic independent reassessment of the  
7             individual resident for appropriateness of continued  
8             placement on the certified unit. For the purposes of this  
9             paragraph (10), "independent" means that no professional  
10             or financial relationship exists between any person making  
11             the assessment and any community provider or long term care  
12             facility.

13             (11) A definition of a "person with high risk of  
14             aggression".

15             The Department shall develop the administrative rules  
16             under this subsection (b) in collaboration with other relevant  
17             State agencies and in consultation with (i) advocates for  
18             residents, (ii) providers of nursing home services, and (iii)  
19             labor and employee-representation organizations.

20             (c) A long term care facility found to be out of compliance  
21             with the certification requirements under Section 3-120 may be  
22             subject to denial, revocation, or suspension of the behavioral  
23             management unit certification or the imposition of sanctions  
24             and penalties, including the immediate suspension of new  
25             admissions. Hearings shall be conducted pursuant to Part 7 of  
26             Article III of this Act.



1       (d) The Department shall establish a certification fee  
2 schedule by rule, in consultation with advocates, nursing  
3 homes, and representatives of associations representing long  
4 term care facilities.

5           (210 ILCS 45/3-202.05 new)

6       Sec. 3-202.05. Staffing ratios effective July 1, 2010 and  
7 thereafter.

8       (a) For the purpose of computing staff to resident ratios,  
9 direct care staff shall include:

10           (1) registered nurses;

11           (2) licensed practical nurses;

12           (3) certified nurse assistants;

13           (4) psychiatric services rehabilitation aides;

14           (5) rehabilitation and therapy aides;

15           (6) psychiatric services rehabilitation coordinators;

16           (7) assistant directors of nursing;

17           (8) 50% of the Director of Nurses' time; and

18           (9) 30% of the Social Services Directors' time.

19       The Department shall, by rule, allow certain facilities  
20 subject to 77 Ill. Admin. Code 300.4000 and following (Subpart  
21 S) and 300.6000 and following (Subpart T) to utilize  
22 specialized clinical staff, as defined in rules, to count  
23 towards the staffing ratios.

24       (b) Beginning July 1, 2011, and thereafter, light  
25 intermediate care shall be staffed at the same staffing ratio

1 as intermediate care.

2 (c) Facilities shall notify the Department within 60 days  
3 after the effective date of this amendatory Act of the 96th  
4 General Assembly, in a form and manner prescribed by the  
5 Department, of the staffing ratios in effect on the effective  
6 date of this amendatory Act of the 96th General Assembly for  
7 both intermediate and skilled care and the number of residents  
8 receiving each level of care.

9 (d)(1) Effective July 1, 2010, for each resident needing  
10 skilled care, a minimum staffing ratio of 2.5 hours of nursing  
11 and personal care each day must be provided; for each resident  
12 needing intermediate care, 1.7 hours of nursing and personal  
13 care each day must be provided.

14 (2) Effective January 1, 2011, the minimum staffing  
15 ratios shall be increased to 2.7 hours of nursing and  
16 personal care each day for a resident needing skilled care  
17 and 1.9 hours of nursing and personal care each day for a  
18 resident needing intermediate care.

19 (3) Effective January 1, 2012, the minimum staffing  
20 ratios shall be increased to 3.0 hours of nursing and  
21 personal care each day for a resident needing skilled care  
22 and 2.1 hours of nursing and personal care each day for a  
23 resident needing intermediate care.

24 (4) Effective January 1, 2013, the minimum staffing  
25 ratios shall be increased to 3.4 hours of nursing and  
26 personal care each day for a resident needing skilled care

1       and 2.3 hours of nursing and personal care each day for a  
2       resident needing intermediate care.

3       (5) Effective January 1, 2014, the minimum staffing  
4       ratios shall be increased to 3.8 hours of nursing and  
5       personal care each day for a resident needing skilled care  
6       and 2.5 hours of nursing and personal care each day for a  
7       resident needing intermediate care.

8       (210 ILCS 45/3-202.2a new)

9       Sec. 3-202.2a. Comprehensive resident care plan. A  
10      facility, with the participation of the resident and the  
11      resident's guardian or representative, as applicable, must  
12      develop and implement a comprehensive care plan for each  
13      resident that includes measurable objectives and timetables to  
14      meet the resident's medical, nursing, and mental and  
15      psychosocial needs that are identified in the resident's  
16      comprehensive assessment, which allow the resident to attain or  
17      maintain the highest practicable level of independent  
18      functioning, and provide for discharge planning to the least  
19      restrictive setting based on the resident's care needs. The  
20      assessment shall be developed with the active participation of  
21      the resident and the resident's guardian or representative, as  
22      applicable.

23      (210 ILCS 45/3-202.2b new)

24      Sec. 3-202.2b. Certification of psychiatric rehabilitation

1 program.

2 (a) No later than January 1, 2011, the Department shall  
3 file with the Joint Committee on Administrative Rules, pursuant  
4 to the Illinois Administrative Procedure Act, proposed rules or  
5 proposed amendments to existing rules to establish a special  
6 certification program for compliance with 77 Ill. Admin. Code  
7 300.4000 and following (Subpart S), which provides for  
8 psychiatric rehabilitation services that are required to be  
9 offered by a long term care facility licensed under this Act  
10 that serves residents with serious mental illness. Compliance  
11 with standards promulgated pursuant to this Section must be  
12 demonstrated before a long term care facility licensed under  
13 this Act is eligible to become certified under this Section and  
14 annually thereafter.

15 (b) No long term care facility shall establish, operate,  
16 maintain, or offer psychiatric rehabilitation services, or  
17 admit, retain, or seek referrals of a resident with a serious  
18 mental illness diagnosis, unless and until a valid  
19 certification, which remains unsuspended, unrevoked, and  
20 unexpired, has been issued.

21 (c) A facility that currently serves a resident with  
22 serious mental illness may continue to admit such residents  
23 until the Department performs a certification review and  
24 determines that the facility does not meet the requirements for  
25 certification. The Department, at its discretion, may provide  
26 an additional 90-day period for the facility to meet the

1 requirements for certification if it finds that the facility  
2 has made a good faith effort to comply with all certification  
3 requirements and will achieve total compliance with the  
4 requirements before the end of the 90-day period. The facility  
5 shall be prohibited from admitting residents with serious  
6 mental illness until the Department certifies the facility to  
7 be in compliance with the requirements of this Section.

8 (d) A facility currently serving residents with serious  
9 mental illness that elects to terminate provision of services  
10 to this population must immediately notify the Department of  
11 its intent, cease to admit new residents with serious mental  
12 illness, and give notice to all existing residents with serious  
13 mental illness of their impending discharge. These residents  
14 shall be accorded all rights and assistance provided to a  
15 resident being involuntarily discharged and those provided  
16 under Section 2-201.5. The facility shall continue to adhere to  
17 all requirements of 77 Ill. Admin. Code 300.4000 until all  
18 residents with serious mental illness have been discharged.

19 (e) A long term care facility found to be out of compliance  
20 with the certification requirements under this Section may be  
21 subject to denial, revocation, or suspension of the psychiatric  
22 rehabilitation services certification or the imposition of  
23 sanctions and penalties, including the immediate suspension of  
24 new admissions. Hearings shall be conducted pursuant to Article  
25 III, Part 7 of this Act.

26 (f) The Department shall indicate, on its list of licensed

1 long term care facilities, which facilities are certified under  
2 this Section and shall distribute this list to the appropriate  
3 State agencies charged with administering and implementing the  
4 State's program of pre-admission screening and resident  
5 review, hospital discharge planners, Area Agencies on Aging,  
6 Case Coordination Units, and others upon request.

7 (g) No public official, agent, or employee of the State, or  
8 any subcontractor of the State, may refer or arrange for the  
9 placement of a person with serious mental illness in a long  
10 term care facility that is not certified under this Section. No  
11 public official, agent, or employee of the State, or any  
12 subcontractor of the State, may place the name of a long term  
13 care facility on a list of facilities serving the seriously  
14 mentally ill for distribution to the general public or to  
15 professionals arranging for placements or making referrals  
16 unless the facility is certified under this Section.

17 (h) Certification requirements. The Department shall  
18 establish requirements for certification that augment current  
19 quality of care standards for long term care facilities serving  
20 residents with serious mental illness, which shall include  
21 admission, discharge planning, psychiatric rehabilitation  
22 services, development of age-group appropriate treatment plan  
23 goals and services, behavior management services, coordination  
24 with community mental health services, staff qualifications  
25 and training, clinical consultation, resident access to the  
26 outside community, and appropriate environment and space for

1 resident programs, recreation, privacy, and any other issue  
2 deemed appropriate by the Department. The augmented standards  
3 shall at a minimum include, but need not be limited to, the  
4 following:

5 (1) Staff sufficient in number and qualifications  
6 necessary to meet the scheduled and unscheduled needs of  
7 the residents on a 24-hour basis. The Department shall  
8 establish by rule the minimum number of psychiatric  
9 services rehabilitation coordinators in relation to the  
10 number of residents with serious mental illness residing in  
11 the facility.

12 (2) The number and qualifications of consultants  
13 required to be contracted with to provide continuing  
14 education and training, and to assist with program  
15 development.

16 (3) Training for all new employees specific to the care  
17 needs of residents with a serious mental illness diagnosis  
18 during their orientation period and annually thereafter.  
19 Training shall be independent of the Department and  
20 overseen by an agency designated by the Governor to  
21 determine the content of all facility employee training and  
22 to provide training for all trainers of facility employees.  
23 Training of employees shall at minimum include, but need  
24 not be limited to, (i) the impact of a serious mental  
25 illness diagnosis, (ii) the recovery paradigm and the role  
26 of psychiatric rehabilitation, (iii) preventive strategies

1 for managing aggression and crisis prevention, (iv) basic  
2 psychiatric rehabilitation techniques and service  
3 delivery, (v) resident rights, (vi) abuse prevention,  
4 (vii) appropriate interaction between staff and residents,  
5 and (viii) any other topic deemed by the Department to be  
6 important to ensuring quality of care.

7 (4) Quality assessment and improvement requirements,  
8 in addition to those contained in this Act on the effective  
9 date of this amendatory Act of the 96th General Assembly,  
10 specific to a facility's residential psychiatric  
11 rehabilitation services, which shall be made available to  
12 the Department upon request. A facility shall be required  
13 at a minimum to develop and maintain policies and  
14 procedures that include, but need not be limited to,  
15 evaluation of the appropriateness of resident admissions  
16 based on the facility's capacity to meet specific needs,  
17 resident assessments, development and implementation of  
18 care plans, and discharge planning.

19 (5) Room selection and appropriateness of roommate  
20 assignment.

21 (6) Comprehensive quarterly review of all treatment  
22 plans for residents with serious mental illness by the  
23 resident's interdisciplinary team, which takes into  
24 account, at a minimum, the resident's progress, prior  
25 assessments, and treatment plan.

26 (7) Substance abuse screening and management and



1 documented referral relationships with certified substance  
2 abuse treatment providers.

3 (8) Administration of psychotropic medications to a  
4 resident with serious mental illness who is incapable of  
5 giving informed consent, in compliance with the applicable  
6 provisions of the Mental Health and Developmental  
7 Disabilities Code.

8 (i) The Department shall establish a certification fee  
9 schedule by rule, in consultation with advocates, nursing  
10 homes, and representatives of associations representing long  
11 term care facilities.

12 (j) The Director or her or his designee shall seek input  
13 from the Long Term Care Facility Advisory Board before filing  
14 rules to implement this Section.

15 Rules proposed no later than January 1, 2011 under this  
16 Section shall take effect 180 days after being approved by the  
17 Joint Committee on Administrative Rules.

18 (210 ILCS 45/3-206) (from Ch. 111 1/2, par. 4153-206)

19 Sec. 3-206. The Department shall prescribe a curriculum for  
20 training nursing assistants, habilitation aides, and child  
21 care aides.

22 (a) No person, except a volunteer who receives no  
23 compensation from a facility and is not included for the  
24 purpose of meeting any staffing requirements set forth by the  
25 Department, shall act as a nursing assistant, habilitation

1 aide, or child care aide in a facility, nor shall any person,  
2 under any other title, not licensed, certified, or registered  
3 to render medical care by the Department of Professional  
4 Regulation, assist with the personal, medical, or nursing care  
5 of residents in a facility, unless such person meets the  
6 following requirements:

7 (1) Be at least 16 years of age, of temperate habits  
8 and good moral character, honest, reliable and  
9 trustworthy.†

10 (2) Be able to speak and understand the English  
11 language or a language understood by a substantial  
12 percentage of the facility's residents.†

13 (3) Provide evidence of employment or occupation, if  
14 any, and residence for 2 years prior to his present  
15 employment.†

16 (4) Have completed at least 8 years of grade school or  
17 provide proof of equivalent knowledge.†

18 (5) Begin a current course of training for nursing  
19 assistants, habilitation aides, or child care aides,  
20 approved by the Department, within 45 days of initial  
21 employment in the capacity of a nursing assistant,  
22 habilitation aide, or child care aide at any facility. Such  
23 courses of training shall be successfully completed within  
24 120 days of initial employment in the capacity of nursing  
25 assistant, habilitation aide, or child care aide at a  
26 facility. Nursing assistants, habilitation aides, and

1 child care aides who are enrolled in approved courses in  
2 community colleges or other educational institutions on a  
3 term, semester or trimester basis, shall be exempt from the  
4 120 day completion time limit. The Department shall adopt  
5 rules for such courses of training. These rules shall  
6 include procedures for facilities to carry on an approved  
7 course of training within the facility.

8 The Department may accept comparable training in lieu  
9 of the 120 hour course for student nurses, foreign nurses,  
10 military personnel, or employes of the Department of Human  
11 Services.

12 The facility shall develop and implement procedures,  
13 which shall be approved by the Department, for an ongoing  
14 review process, which shall take place within the facility,  
15 for nursing assistants, habilitation aides, and child care  
16 aides.

17 At the time of each regularly scheduled licensure  
18 survey, or at the time of a complaint investigation, the  
19 Department may require any nursing assistant, habilitation  
20 aide, or child care aide to demonstrate, either through  
21 written examination or action, or both, sufficient  
22 knowledge in all areas of required training. If such  
23 knowledge is inadequate the Department shall require the  
24 nursing assistant, habilitation aide, or child care aide to  
25 complete inservice training and review in the facility  
26 until the nursing assistant, habilitation aide, or child

1 care aide demonstrates to the Department, either through  
2 written examination or action, or both, sufficient  
3 knowledge in all areas of required training. ~~and~~

4 (6) Be familiar with and have general skills related to  
5 resident care.

6 (a-0.5) An educational entity, other than a secondary  
7 school, conducting a nursing assistant, habilitation aide, or  
8 child care aide training program shall initiate a ~~UCIA~~ criminal  
9 history record check in accordance with the Health Care Worker  
10 Background Check Act prior to entry of an individual into the  
11 training program. A secondary school may initiate a ~~UCIA~~  
12 criminal history record check in accordance with the Health  
13 Care Worker Background Check Act at any time during or after  
14 ~~prior to the entry of an individual into~~ a training program.

15 (a-1) Nursing assistants, habilitation aides, or child  
16 care aides seeking to be included on the registry maintained  
17 under Section 3-206.01 on or after January 1, 1996 must  
18 authorize the Department of Public Health or its designee ~~that~~  
19 ~~tests nursing assistants~~ to request a ~~UCIA~~ criminal history  
20 record check in accordance with the Health Care Worker  
21 Background Check Act and submit all necessary information. An  
22 individual may not newly be included on the registry unless a  
23 criminal history record check has been conducted with respect  
24 to the individual.

25 (b) Persons subject to this Section shall perform their  
26 duties under the supervision of a licensed nurse.

1 (c) It is unlawful for any facility to employ any person in  
2 the capacity of nursing assistant, habilitation aide, or child  
3 care aide, or under any other title, not licensed by the State  
4 of Illinois to assist in the personal, medical, or nursing care  
5 of residents in such facility unless such person has complied  
6 with this Section.

7 (d) Proof of compliance by each employee with the  
8 requirements set out in this Section shall be maintained for  
9 each such employee by each facility in the individual personnel  
10 folder of the employee. Proof of training shall be obtained  
11 only from the health care worker registry.

12 (e) Each facility shall obtain access to the health care  
13 worker registry's web application, maintain the employment and  
14 demographic information relating to ~~certify to the Department~~  
15 ~~on a form provided by the Department the name and residence~~  
16 ~~address of~~ each employee, and verify by the category and type  
17 of employment that each employee subject to this Section meets  
18 all the requirements of this Section.

19 (f) Any facility that is operated under Section 3-803 shall  
20 be exempt from the requirements of this Section.

21 (g) Each skilled nursing and intermediate care facility  
22 that admits persons who are diagnosed as having Alzheimer's  
23 disease or related dementias shall require all nursing  
24 assistants, habilitation aides, or child care aides, who did  
25 not receive 12 hours of training in the care and treatment of  
26 such residents during the training required under paragraph (5)

1 of subsection (a), to obtain 12 hours of in-house training in  
2 the care and treatment of such residents. If the facility does  
3 not provide the training in-house, the training shall be  
4 obtained from other facilities, community colleges or other  
5 educational institutions that have a recognized course for such  
6 training. The Department shall, by rule, establish a recognized  
7 course for such training. The Department's rules shall provide  
8 that such training may be conducted in-house at each facility  
9 subject to the requirements of this subsection, in which case  
10 such training shall be monitored by the Department.

11 The Department's rules shall also provide for  
12 circumstances and procedures whereby any person who has  
13 received training that meets the requirements of this  
14 subsection shall not be required to undergo additional training  
15 if he or she is transferred to or obtains employment at a  
16 different facility or a facility other than a long-term care  
17 facility but remains continuously employed for pay as a nursing  
18 assistant, habilitation aide, or child care aide. Individuals  
19 who have performed no nursing or nursing-related services for a  
20 period of 24 consecutive months shall be listed as "inactive"  
21 and as such do not meet the requirements of this Section.

22 Licensed sheltered care facilities shall be exempt from the  
23 requirements of this Section.

24 (Source: P.A. 91-598, eff. 1-1-00.)

25 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par. 4153-206.01)

1           Sec. 3-206.01. Health care worker registry.

2           (a) The Department shall establish and maintain a registry  
3 of all individuals who (i) have satisfactorily completed the  
4 training required by Section 3-206, (ii) have begun a current  
5 course of training as set forth in Section 3-206, or (iii) are  
6 otherwise acting as a nursing assistant, habilitation aide,  
7 home health aide, psychiatric services rehabilitation aide, or  
8 child care aide. The registry shall include the individual's  
9 ~~name of the nursing assistant, habilitation aide, or child care~~  
10 ~~aide,~~ his or her current address, Social Security number, and  
11 the date and location of the training course completed by the  
12 individual, and whether the individual has any of the  
13 disqualifying convictions listed in Section 25 of the Health  
14 Care Worker Background Check Act from the date of the  
15 individual's last criminal records check. Any individual  
16 placed on the registry is required to inform the Department of  
17 any change of address within 30 days. A facility shall not  
18 employ an individual as a nursing assistant, habilitation aide,  
19 home health aide, psychiatric services rehabilitation aide, or  
20 child care aide, or newly hired as an individual who may have  
21 access to a resident, a resident's living quarters, or a  
22 resident's personal, financial, or medical records, unless the  
23 facility has inquired of the Department's health care worker  
24 registry ~~Department~~ as to information in the registry  
25 concerning the individual. The facility ~~and~~ shall not employ an  
26 individual as a nursing assistant, habilitation aide, or child

1 care aide if that individual is anyone not on the registry  
2 unless the individual is enrolled in a training program under  
3 paragraph (5) of subsection (a) of Section 3-206 of this Act.

4 If the Department finds that a nursing assistant,  
5 habilitation aide, home health aide, psychiatric services  
6 rehabilitation aide, or child care aide, or an unlicensed  
7 individual, has abused or neglected a resident or an individual  
8 under his or her care, ~~neglected a resident,~~ or misappropriated  
9 ~~resident~~ property of a resident or an individual under his or  
10 her care in a facility, the Department shall notify the  
11 individual of this finding by certified mail sent to the  
12 address contained in the registry. The notice shall give the  
13 individual an opportunity to contest the finding in a hearing  
14 before the Department or to submit a written response to the  
15 findings in lieu of requesting a hearing. If, after a hearing  
16 or if the individual does not request a hearing, the Department  
17 finds that the individual abused a resident, neglected a  
18 resident, or misappropriated resident property in a facility,  
19 the finding shall be included as part of the registry as well  
20 as a clear and accurate summary ~~brief statement~~ from the  
21 individual, if he or she chooses to make such a statement. The  
22 Department shall make the following information in the registry  
23 available to the public: an individual's full name; the date an  
24 individual successfully completed a nurse aide training or  
25 competency evaluation; and whether the Department has made a  
26 finding that an individual has been guilty of abuse or neglect



1 of a resident or misappropriation of resident property. In the  
2 case of inquiries to the registry concerning an individual  
3 listed in the registry, any information disclosed concerning  
4 such a finding shall also include disclosure of the  
5 individual's ~~any~~ statement in the registry relating to the  
6 finding or a clear and accurate summary of the statement.

7 (b) The Department shall add to the health care worker  
8 registry records of findings as reported by the Inspector  
9 General or remove from the health care worker registry records  
10 of findings as reported by the Department of Human Services,  
11 under subsection (g-5) of Section 1-17 of the Department of  
12 Human Services Act.

13 (Source: P.A. 95-545, eff. 8-28-07.)

14 (210 ILCS 45/3-206.02) (from Ch. 111 1/2, par. 4153-206.02)  
15 Sec. 3-206.02. (a) The Department, after notice to the  
16 nursing assistant, habilitation aide, home health aide,  
17 psychiatric services rehabilitation aide, or child care aide,  
18 may denote that the Department has found any of the following:

19 (1) The nursing assistant, habilitation aide, home  
20 health aide, psychiatric services rehabilitation aide, or  
21 child care aide has abused a resident.

22 (2) The nursing assistant, habilitation aide, home  
23 health aide, psychiatric services rehabilitation aide, or  
24 child care aide has neglected a resident.

25 (3) The nursing assistant, habilitation aide, home

1 health aide, psychiatric services rehabilitation aide, or  
2 child care aide has misappropriated resident property.

3 (4) The nursing assistant, habilitation aide, home  
4 health aide, psychiatric services rehabilitation aide, or  
5 child care aide has been convicted of (i) a felony, (ii) a  
6 misdemeanor, an essential element of which is dishonesty,  
7 or (iii) any crime that is directly related to the duties  
8 of a nursing assistant, habilitation aide, or child care  
9 aide.

10 (b) Notice under this Section shall include a clear and  
11 concise statement of the grounds denoting abuse, neglect, or  
12 theft and notice of the opportunity for a hearing to contest  
13 the designation.

14 (c) The Department may denote any nursing assistant,  
15 habilitation aide, home health aide, psychiatric services  
16 rehabilitation aide, or child care aide on the registry who  
17 fails (i) to file a return, (ii) to pay the tax, penalty or  
18 interest shown in a filed return, or (iii) to pay any final  
19 assessment of tax, penalty or interest, as required by any tax  
20 Act administered by the Illinois Department of Revenue, until  
21 the time the requirements of the tax Act are satisfied.

22 (c-1) The Department shall document criminal background  
23 check results pursuant to the requirements of the Health Care  
24 Worker Background Check Act.

25 (d) At any time after the designation on the registry  
26 pursuant to subsection (a), (b), or (c) of this Section, a

1 nursing assistant, habilitation aide, home health aide,  
2 psychiatric services rehabilitation aide, or child care aide  
3 may petition the Department for removal of a designation of  
4 neglect on the registry. The Department may remove the  
5 designation of neglect of the nursing assistant, habilitation  
6 aide, home health aide, psychiatric services rehabilitation  
7 aide, or child care aide on the registry unless, after an  
8 investigation and a hearing, the Department determines that  
9 removal of designation is not in the public interest.

10 (Source: P.A. 91-598, eff. 1-1-00.)

11 (210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)

12 Sec. 3-212. Inspection.

13 (a) The Department, whenever it deems necessary in  
14 accordance with subsection (b), shall inspect, survey and  
15 evaluate every facility to determine compliance with  
16 applicable licensure requirements and standards. Submission of  
17 a facility's current Consumer Choice Information Report  
18 required by Section 2-214 shall be verified at time of  
19 inspection. An inspection should occur within 120 days prior to  
20 license renewal. The Department may periodically visit a  
21 facility for the purpose of consultation. An inspection,  
22 survey, or evaluation, other than an inspection of financial  
23 records, shall be conducted without prior notice to the  
24 facility. A visit for the sole purpose of consultation may be  
25 announced. The Department shall provide training to surveyors

1 about the appropriate assessment, care planning, and care of  
2 persons with mental illness (other than Alzheimer's disease or  
3 related disorders) to enable its surveyors to determine whether  
4 a facility is complying with State and federal requirements  
5 about the assessment, care planning, and care of those persons.

6 (a-1) An employee of a State or unit of local government  
7 agency charged with inspecting, surveying, and evaluating  
8 facilities who directly or indirectly gives prior notice of an  
9 inspection, survey, or evaluation, other than an inspection of  
10 financial records, to a facility or to an employee of a  
11 facility is guilty of a Class A misdemeanor.

12 An inspector or an employee of the Department who  
13 intentionally prenotifies a facility, orally or in writing, of  
14 a pending complaint investigation or inspection shall be guilty  
15 of a Class A misdemeanor. Superiors of persons who have  
16 prenotified a facility shall be subject to the same penalties,  
17 if they have knowingly allowed the prenotification. A person  
18 found guilty of prenotifying a facility shall be subject to  
19 disciplinary action by his or her employer.

20 If the Department has a good faith belief, based upon  
21 information that comes to its attention, that a violation of  
22 this subsection has occurred, it must file a complaint with the  
23 Attorney General or the State's Attorney in the county where  
24 the violation took place within 30 days after discovery of the  
25 information.

26 (a-2) An employee of a State or unit of local government

1 agency charged with inspecting, surveying, or evaluating  
2 facilities who willfully profits from violating the  
3 confidentiality of the inspection, survey, or evaluation  
4 process shall be guilty of a Class 4 felony and that conduct  
5 shall be deemed unprofessional conduct that may subject a  
6 person to loss of his or her professional license. An action to  
7 prosecute a person for violating this subsection (a-2) may be  
8 brought by either the Attorney General or the State's Attorney  
9 in the county where the violation took place.

10 (b) In determining whether to make more than the required  
11 number of unannounced inspections, surveys and evaluations of a  
12 facility the Department shall consider one or more of the  
13 following: previous inspection reports; the facility's history  
14 of compliance with standards, rules and regulations  
15 promulgated under this Act and correction of violations,  
16 penalties or other enforcement actions; the number and severity  
17 of complaints received about the facility; any allegations of  
18 resident abuse or neglect; weather conditions; health  
19 emergencies; other reasonable belief that deficiencies exist.

20 (b-1) The Department shall not be required to determine  
21 whether a facility certified to participate in the Medicare  
22 program under Title XVIII of the Social Security Act, or the  
23 Medicaid program under Title XIX of the Social Security Act,  
24 and which the Department determines by inspection under this  
25 Section or under Section 3-702 of this Act to be in compliance  
26 with the certification requirements of Title XVIII or XIX, is

1 in compliance with any requirement of this Act that is less  
2 stringent than or duplicates a federal certification  
3 requirement. In accordance with subsection (a) of this Section  
4 or subsection (d) of Section 3-702, the Department shall  
5 determine whether a certified facility is in compliance with  
6 requirements of this Act that exceed federal certification  
7 requirements. If a certified facility is found to be out of  
8 compliance with federal certification requirements, the  
9 results of an inspection conducted pursuant to Title XVIII or  
10 XIX of the Social Security Act may be used as the basis for  
11 enforcement remedies authorized and commenced, with the  
12 Department's discretion to evaluate whether penalties are  
13 warranted, under this Act. Enforcement of this Act against a  
14 certified facility shall be commenced pursuant to the  
15 requirements of this Act, unless enforcement remedies sought  
16 pursuant to Title XVIII or XIX of the Social Security Act  
17 exceed those authorized by this Act. As used in this  
18 subsection, "enforcement remedy" means a sanction for  
19 violating a federal certification requirement or this Act.

20 (c) Upon completion of each inspection, survey and  
21 evaluation, the appropriate Department personnel who conducted  
22 the inspection, survey or evaluation shall submit a copy of  
23 their report to the licensee upon exiting the facility, and  
24 shall submit the actual report to the appropriate regional  
25 office of the Department. Such report and any recommendations  
26 for action by the Department under this Act shall be

1 transmitted to the appropriate offices of the associate  
2 director of the Department, together with related comments or  
3 documentation provided by the licensee which may refute  
4 findings in the report, which explain extenuating  
5 circumstances that the facility could not reasonably have  
6 prevented, or which indicate methods and timetables for  
7 correction of deficiencies described in the report. Without  
8 affecting the application of subsection (a) of Section 3-303,  
9 any documentation or comments of the licensee shall be provided  
10 within 10 days of receipt of the copy of the report. Such  
11 report shall recommend to the Director appropriate action under  
12 this Act with respect to findings against a facility. The  
13 Director shall then determine whether the report's findings  
14 constitute a violation or violations of which the facility must  
15 be given notice. Such determination shall be based upon the  
16 severity of the finding, the danger posed to resident health  
17 and safety, the comments and documentation provided by the  
18 facility, the diligence and efforts to correct deficiencies,  
19 correction of the reported deficiencies, the frequency and  
20 duration of similar findings in previous reports and the  
21 facility's general inspection history. Violations shall be  
22 determined under this subsection no later than 90 ~~60~~ days after  
23 completion of each inspection, survey and evaluation.

24 (d) The Department shall maintain all inspection, survey  
25 and evaluation reports for at least 5 years in a manner  
26 accessible to and understandable by the public.

1       (e) Revisit surveys. The Department shall conduct a revisit  
2       to its licensure and certification surveys, consistent with  
3       federal regulations and guidelines.

4       (Source: P.A. 95-823, eff. 1-1-09.)

5               (210 ILCS 45/3-303) (from Ch. 111 1/2, par. 4153-303)

6       Sec. 3-303. (a) The situation, condition or practice  
7       constituting a Type "AA" violation or a Type "A" violation  
8       shall be abated or eliminated immediately unless a fixed period  
9       of time, not exceeding 15 days, as determined by the Department  
10       and specified in the notice of violation, is required for  
11       correction.

12       (b) At the time of issuance of a notice of a Type "B"  
13       violation, the Department shall request a plan of correction  
14       which is subject to the Department's approval. The facility  
15       shall have 10 days after receipt of notice of violation in  
16       which to prepare and submit a plan of correction. The  
17       Department may extend this period up to 30 days where  
18       correction involves substantial capital improvement. The plan  
19       shall include a fixed time period not in excess of 90 days  
20       within which violations are to be corrected. If the Department  
21       rejects a plan of correction, it shall send notice of the  
22       rejection and the reason for the rejection to the facility. The  
23       facility shall have 10 days after receipt of the notice of  
24       rejection in which to submit a modified plan. If the modified  
25       plan is not timely submitted, or if the modified plan is



1 rejected, the facility shall follow an approved plan of  
2 correction imposed by the Department.

3 (c) If the violation has been corrected prior to submission  
4 and approval of a plan of correction, the facility may submit a  
5 report of correction in place of a plan of correction. Such  
6 report shall be signed by the administrator under oath.

7 (d) Upon a licensee's petition, the Department shall  
8 determine whether to grant a licensee's request for an extended  
9 correction time. Such petition shall be served on the  
10 Department prior to expiration of the correction time  
11 originally approved. The burden of proof is on the petitioning  
12 facility to show good cause for not being able to comply with  
13 the original correction time approved.

14 (e) If a facility desires to contest any Department action  
15 under this Section it shall send a written request for a  
16 hearing under Section 3-703 to the Department within 10 days of  
17 receipt of notice of the contested action. The Department shall  
18 commence the hearing as provided under Section 3-703. Whenever  
19 possible, all action of the Department under this Section  
20 arising out of a violation shall be contested and determined at  
21 a single hearing. Issues decided after a hearing may not be  
22 reheard at subsequent hearings under this Section.

23 (Source: P.A. 85-1378.)

24 (210 ILCS 45/3-303.2) (from Ch. 111 1/2, par. 4153-303.2)

25 Sec. 3-303.2. (a) If the Department finds a situation,

1 condition or practice which violates this Act or any rule  
2 promulgated thereunder which does not constitute a Type "AA",  
3 Type "A", Type "B", or Type "C" violation ~~directly threaten the~~  
4 ~~health, safety or welfare of a resident,~~ the Department shall  
5 issue an administrative warning. Any administrative warning  
6 shall be served upon the facility in the same manner as the  
7 notice of violation under Section 3-301. The facility shall be  
8 responsible for correcting the situation, condition or  
9 practice; however, no written plan of correction need be  
10 submitted for an administrative warning, except for violations  
11 of Sections 3-401 through 3-413 or the rules promulgated  
12 thereunder. A written plan of correction is required to be  
13 filed for an administrative warning issued for violations of  
14 Sections 3-401 through 3-413 or the rules promulgated  
15 thereunder.

16 (b) If, however, the situation, condition or practice which  
17 resulted in the issuance of an administrative warning, with the  
18 exception of administrative warnings issued pursuant to  
19 Sections 3-401 through 3-413 or the rules promulgated  
20 thereunder, is not corrected by the next on-site inspection by  
21 the Department which occurs no earlier than 90 days from the  
22 issuance of the administrative warning, a written plan of  
23 correction must be submitted in the same manner as provided in  
24 subsection (b) of Section 3-303.

25 (Source: P.A. 87-549.)

1 (210 ILCS 45/3-304.1)

2 Sec. 3-304.1. Public computer access to information.

3 (a) The Department must make information regarding nursing  
4 homes in the State available to the public in electronic form  
5 on the World Wide Web, including all of the following  
6 information:

7 (1) who regulates nursing homes;

8 (2) information in the possession of the Department  
9 that is listed in Sections 3-210 and 3-304;

10 (3) deficiencies and plans of correction;

11 (4) enforcement remedies;

12 (5) penalty letters;

13 (6) designation of penalty monies;

14 (7) the U.S. Department of Health and Human Services'  
15 Health Care Financing Administration special projects or  
16 federally required inspections;

17 (8) advisory standards;

18 (9) deficiency-free surveys; ~~and~~

19 (10) enforcement actions and enforcement summaries;

20 and-

21 (11) distressed facilities.

22 (b) No fee or other charge may be imposed by the Department  
23 as a condition of accessing the information.

24 (c) The electronic public access provided through the World  
25 Wide Web shall be in addition to any other electronic or print  
26 distribution of the information.

1 (d) The information shall be made available as provided in  
2 this Section in the shortest practicable time after it is  
3 publicly available in any other form.

4 (Source: P.A. 91-290, eff. 1-1-00.)

5 (210 ILCS 45/3-304.2 new)

6 Sec. 3-304.2. Designation of distressed facilities.

7 (a) By May 1, 2011, and quarterly thereafter, the  
8 Department shall generate and publish quarterly a list of  
9 distressed facilities. Criteria for inclusion of certified  
10 facilities on the list shall be those used by the U.S. General  
11 Accounting Office in report 9-689, until such time as the  
12 Department by rule modifies the criteria.

13 (b) In deciding whether and how to modify the criteria used  
14 by the General Accounting Office, the Department shall complete  
15 a test run of any substitute criteria to determine their  
16 reliability by comparing the number of facilities identified as  
17 distressed against the number of distressed facilities  
18 generated using the criteria contained in the General  
19 Accounting Office report. The Department may not adopt  
20 substitute criteria that generate fewer facilities with a  
21 distressed designation than are produced by the General  
22 Accounting Office criteria during the test run.

23 (c) The Department shall, by rule, adopt criteria to  
24 identify non-Medicaid-certified facilities that are distressed  
25 and shall publish this list quarterly beginning October 1,

1 2011.

2 (d) The Department shall notify each facility of its  
3 distressed designation, and of the calculation on which it is  
4 based.

5 (e) A distressed facility may contract with an independent  
6 consultant meeting criteria established by the Department. If  
7 the distressed facility does not seek the assistance of an  
8 independent consultant, the Department shall place a monitor or  
9 a temporary manager in the facility, depending on the  
10 Department's assessment of the condition of the facility.

11 (f) Independent consultant. A facility that has been  
12 designated a distressed facility may contract with an  
13 independent consultant to develop and assist in the  
14 implementation of a plan of improvement to bring and keep the  
15 facility in compliance with this Act and, if applicable, with  
16 federal certification requirements. A facility that contracts  
17 with an independent consultant shall have 90 days to develop a  
18 plan of improvement and demonstrate a good faith effort at  
19 implementation, and another 90 days to achieve compliance and  
20 take whatever additional actions are called for in the  
21 improvement plan to maintain compliance. A facility that the  
22 Department determines has a plan of improvement likely to bring  
23 and keep the facility in compliance and that has demonstrated  
24 good faith efforts at implementation within the first 90 days  
25 may be eligible to receive a grant under the Equity in  
26 Long-term Care Quality Act to assist it in achieving and

1 maintaining compliance. In this subsection, "independent"  
2 consultant means an individual who has no professional or  
3 financial relationship with the facility, any person with a  
4 reportable ownership interest in the facility, or any related  
5 parties. In this subsection, "related parties" has the meaning  
6 attributed to it in the instructions for completing Medicaid  
7 cost reports.

8 (f) Monitor and temporary managers. A distressed facility  
9 that does not contract with a consultant shall be assigned a  
10 monitor or a temporary manager at the Department's discretion.  
11 The cost of the temporary manager shall be paid by the  
12 facility. The temporary manager shall have the authority  
13 determined by the Department, which may grant the temporary  
14 manager any or all of the authority a court may grant a  
15 receiver. The temporary manager may apply to the Equity in  
16 Long-term Care Quality Fund for grant funds to implement the  
17 plan of improvement.

18 (g) The Department shall by rule establish a mentor program  
19 for owners of distressed facilities.

20 (h) The Department shall by rule establish sanctions (in  
21 addition to those authorized elsewhere in this Article) against  
22 distressed facilities that are not in compliance with this Act  
23 and (if applicable) with federal certification requirements.  
24 Criteria for imposing sanctions shall take into account a  
25 facility's actions to address the violations and deficiencies  
26 that caused its designation as a distressed facility, and its

1 compliance with this Act and with federal certification  
2 requirements (if applicable), subsequent to its designation as  
3 a distressed facility, including mandatory revocations if  
4 criteria can be agreed upon by the Department, resident  
5 advocates, and representatives of the nursing home profession.  
6 By February 1, 2011, the Department shall report to the General  
7 Assembly on the results of negotiations about creating criteria  
8 for mandatory license revocations of distressed facilities and  
9 make recommendations about any statutory changes it believes  
10 are appropriate to protect the health, safety, and welfare of  
11 nursing home residents.

12 (i) The Department may establish by rule criteria for  
13 restricting the owner of a facility on the distressed list from  
14 acquiring additional skilled nursing facilities.

15 (210 ILCS 45/3-305) (from Ch. 111 1/2, par. 4153-305)

16 Sec. 3-305. The license of a facility which is in violation  
17 of this Act or any rule adopted thereunder may be subject to  
18 the penalties or fines levied by the Department as specified in  
19 this Section.

20 (1) ~~A Unless a greater penalty or fine is allowed under~~  
21 ~~subsection (3),~~ a licensee who commits a Type "AA" ~~"A"~~  
22 violation as defined in Section 1-128.5 ~~1-129~~ is automatically  
23 issued a conditional license for a period of 6 months to  
24 coincide with an acceptable plan of correction and assessed a  
25 fine up to \$25,000 per violation ~~computed at a rate of \$5.00~~

1 ~~per resident in the facility plus 20 cents per resident for~~  
2 ~~each day of the violation, commencing on the date a notice of~~  
3 ~~the violation is served under Section 3-301 and ending on the~~  
4 ~~date the violation is corrected, or a fine of not less than~~  
5 ~~\$5,000, or when death, serious mental or physical harm,~~  
6 ~~permanent disability, or disfigurement results, a fine of not~~  
7 ~~less than \$10,000, whichever is greater.~~

8 (1.5) A licensee who commits a Type "A" violation as  
9 defined in Section 1-129 is automatically issued a conditional  
10 license for a period of 6 months to coincide with an acceptable  
11 plan of correction and assessed a fine of up to \$12,500 per  
12 violation.

13 (2) A licensee who commits a Type "B" violation as defined  
14 in Section 1-130 shall be assessed a fine of up to \$1,100 per  
15 violation ~~or who is issued an administrative warning for a~~  
16 ~~violation of Sections 3-401 through 3-413 or the rules~~  
17 ~~promulgated thereunder is subject to a penalty computed at a~~  
18 ~~rate of \$3 per resident in the facility, plus 15 cents per~~  
19 ~~resident for each day of the violation, commencing on the date~~  
20 ~~a notice of the violation is served under Section 3-301 and~~  
21 ~~ending on the date the violation is corrected, or a fine not~~  
22 ~~less than \$500, whichever is greater. Such fine shall be~~  
23 ~~assessed on the date of notice of the violation and shall be~~  
24 ~~suspended for violations that continue after such date upon~~  
25 ~~completion of a plan of correction in accordance with Section~~  
26 ~~3-308 in relation to the assessment of fines and correction.~~



1 ~~Failure to correct such violation within the time period~~  
2 ~~approved under a plan of correction shall result in a fine and~~  
3 ~~conditional license as provided under subsection (5).~~

4 (2.5) A licensee who commits 10 or more Type "C"  
5 violations, as defined in Section 1-132, in a single survey  
6 shall be assessed a fine of up to \$250 per violation. A  
7 licensee who commits one or more Type "C" violations with a  
8 high risk designation, as defined by rule, shall be assessed a  
9 fine of up to \$500 per violation.

10 (3) A licensee who commits a Type "AA" or Type "A"  
11 violation as defined in Section 1-128.5 or 1-129 which  
12 continues beyond the time specified in paragraph (a) of Section  
13 3-303 which is cited as a repeat violation shall have its  
14 license revoked and shall be assessed a fine of 3 times the  
15 fine computed per resident per day under subsection (1).

16 (4) A licensee who fails to satisfactorily comply with an  
17 accepted plan of correction for a Type "B" violation or an  
18 administrative warning issued pursuant to Sections 3-401  
19 through 3-413 or the rules promulgated thereunder shall be  
20 automatically issued a conditional license for a period of not  
21 less than 6 months. A second or subsequent acceptable plan of  
22 correction shall be filed. A fine shall be assessed in  
23 accordance with subsection (2) when cited for the repeat  
24 violation. This fine shall be computed for all days of the  
25 violation, including the duration of the first plan of  
26 correction compliance time.

1           (5) For the purpose of computing a penalty under  
2 subsections (2) through (4), the number of residents per day  
3 shall be based on the average number of residents in the  
4 facility during the 30 days preceding the discovery of the  
5 violation.

6           (6) When the Department finds that a provision of Article  
7 II has been violated with regard to a particular resident, the  
8 Department shall issue an order requiring the facility to  
9 reimburse the resident for injuries incurred, or \$100,  
10 whichever is greater. In the case of a violation involving any  
11 action other than theft of money belonging to a resident,  
12 reimbursement shall be ordered only if a provision of Article  
13 II has been violated with regard to that or any other resident  
14 of the facility within the 2 years immediately preceding the  
15 violation in question.

16           (7) For purposes of assessing fines under this Section, a  
17 repeat violation shall be a violation which has been cited  
18 during one inspection of the facility for which an accepted  
19 plan of correction was not complied with or. ~~A repeat violation~~  
20 ~~shall not be~~ a new citation of the same rule if, ~~unless~~ the  
21 licensee is not substantially addressing the issue routinely  
22 throughout the facility.

23           (7.5) If an occurrence results in more than one type of  
24 violation as defined in this Act (that is, a Type "AA", Type  
25 "A", Type "B", or Type "C" violation), the maximum fine that  
26 may be assessed for that occurrence is the maximum fine that

1 may be assessed for the most serious type of violation charged.  
2 For purposes of the preceding sentence, a Type "AA" violation  
3 is the most serious type of violation that may be charged,  
4 followed by a Type "A", Type "B", or Type "C" violation, in  
5 that order.

6 (8) The minimum and maximum fines that may be assessed  
7 pursuant to this Section shall be twice those otherwise  
8 specified for any facility that willfully makes a misstatement  
9 of fact to the Department, or willfully fails to make a  
10 required notification to the Department, if that misstatement  
11 or failure delays the start of a surveyor or impedes a survey.

12 (9) High risk designation. If the Department finds that a  
13 facility has violated a provision of the Illinois  
14 Administrative Code that has a high risk designation, or that a  
15 facility has violated the same provision of the Illinois  
16 Administrative Code 3 or more times in the previous 12 months,  
17 the Department may assess a fine of up to 2 times the maximum  
18 fine otherwise allowed.

19 (10) If a licensee has paid a civil monetary penalty  
20 imposed pursuant to the Medicare and Medicaid Certification  
21 Program for the equivalent federal violation giving rise to a  
22 fine under this Section, the Department shall offset the fine  
23 by the amount of the civil monetary penalty. The offset may not  
24 reduce the fine by more than 75% of the original fine, however.

25 (Source: P.A. 86-407; 87-549; 87-1056.)

1 (210 ILCS 45/3-306) (from Ch. 111 1/2, par. 4153-306)

2 Sec. 3-306. In determining whether a penalty is to be  
3 imposed and in determining ~~fixing~~ the amount of the penalty to  
4 be imposed, if any, for a violation, the Director shall  
5 consider the following factors:

6 (1) The gravity of the violation, including the probability  
7 that death or serious physical or mental harm to a resident  
8 will result or has resulted; the severity of the actual or  
9 potential harm, and the extent to which the provisions of the  
10 applicable statutes or regulations were violated;

11 (2) The reasonable diligence exercised by the licensee and  
12 efforts to correct violations.

13 (3) Any previous violations committed by the licensee; and

14 (4) The financial benefit to the facility of committing or  
15 continuing the violation.

16 (Source: P.A. 81-223.)

17 (210 ILCS 45/3-309) (from Ch. 111 1/2, par. 4153-309)

18 Sec. 3-309. A facility may contest an assessment of a  
19 penalty by sending a written request to the Department for  
20 hearing under Section 3-703. Upon receipt of the request the  
21 Department shall hold a hearing as provided under Section  
22 3-703. Instead of requesting a hearing pursuant to Section  
23 3-703, a facility may, within 10 business days after receipt of  
24 the notice of violation and fine assessment, transmit to the  
25 Department (i) 65% of the amount assessed for each violation

1 specified in the penalty assessment or (ii) in the case of a  
2 fine subject to offset under paragraph (10) of Section 3-305,  
3 up to 75% of the amount assessed.

4 (Source: P.A. 81-223.)

5 (210 ILCS 45/3-310) (from Ch. 111 1/2, par. 4153-310)

6 Sec. 3-310. All penalties shall be paid to the Department  
7 within 10 days of receipt of notice of assessment or, if the  
8 penalty is contested under Section 3-309, within 10 days of  
9 receipt of the final decision, unless the decision is appealed  
10 and the order is stayed by court order under Section 3-713. A  
11 facility choosing to waive the right to a hearing under Section  
12 3-309 shall submit a payment totaling 65% of the original fine  
13 amount along with the written waiver. A penalty assessed under  
14 this Act shall be collected by the Department and shall be  
15 deposited with the State Treasurer into the Long Term Care  
16 Monitor/Receiver Fund. If the person or facility against whom a  
17 penalty has been assessed does not comply with a written demand  
18 for payment within 30 days, the Director shall issue an order  
19 to do any of the following:

20 (1) Direct the State Treasurer or Comptroller to deduct  
21 the amount of the fine from amounts otherwise due from the  
22 State for the penalty, including any payments to be made  
23 from the Medicaid Long Term Care Provider Participation Fee  
24 Trust Fund established under Section 5-4.31 of the Illinois  
25 Public Aid Code, and remit that amount to the Department;

1           (2) Add the amount of the penalty to the facility's  
2           licensing fee; if the licensee refuses to make the payment  
3           at the time of application for renewal of its license, the  
4           license shall not be renewed; or

5           (3) Bring an action in circuit court to recover the  
6           amount of the penalty.

7           With the approval of the federal centers for Medicaid and  
8           Medicare services, the Director of Public Health shall set  
9           aside 50% of the federal civil monetary penalties collected  
10          each year to be used to award grants under the Equity  
11          ~~Innovations~~ in Long-term Care Quality ~~Grants~~ Act.

12          (Source: P.A. 92-784, eff. 8-6-02.)

13           (210 ILCS 45/3-318) (from Ch. 111 1/2, par. 4153-318)

14          Sec. 3-318. (a) No person shall:

15           (1) Intentionally fail to correct or interfere with the  
16           correction of a Type "AA", Type "A", or Type "B" violation  
17           within the time specified on the notice or approved plan of  
18           correction under this Act as the maximum period given for  
19           correction, unless an extension is granted and the corrections  
20           are made before expiration of extension;

21           (2) Intentionally prevent, interfere with, or attempt to  
22           impede in any way any duly authorized investigation and  
23           enforcement of this Act;

24           (3) Intentionally prevent or attempt to prevent any  
25           examination of any relevant books or records pertinent to

1 investigations and enforcement of this Act;

2 (4) Intentionally prevent or interfere with the  
3 preservation of evidence pertaining to any violation of this  
4 Act or the rules promulgated under this Act;

5 (5) Intentionally retaliate or discriminate against any  
6 resident or employee for contacting or providing information to  
7 any state official, or for initiating, participating in, or  
8 testifying in an action for any remedy authorized under this  
9 Act;

10 (6) Wilfully file any false, incomplete or intentionally  
11 misleading information required to be filed under this Act, or  
12 wilfully fail or refuse to file any required information; or

13 (7) Open or operate a facility without a license.

14 (b) A violation of this Section is a business offense,  
15 punishable by a fine not to exceed \$10,000, except as otherwise  
16 provided in subsection (2) of Section 3-103 as to submission of  
17 false or misleading information in a license application.

18 (c) The State's Attorney of the county in which the  
19 facility is located, or the Attorney General, shall be notified  
20 by the Director of any violations of this Section.

21 (Source: P.A. 83-1530.)

22 (210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

23 Sec. 3-402. Involuntary transfer or discharge of a resident  
24 from a facility shall be preceded by the discussion required  
25 under Section 3-408 and by a minimum written notice of 21 days,

1 except in one of the following instances:

2 (a) When ~~when~~ an emergency transfer or discharge is ordered  
3 by the resident's attending physician because of the resident's  
4 health care needs. ~~or~~

5 (b) When ~~when~~ the transfer or discharge is mandated by the  
6 physical safety of other residents, the facility staff, or  
7 facility visitors, as documented in the clinical record. The  
8 Department shall be notified prior to any such involuntary  
9 transfer or discharge. The Department shall immediately offer  
10 transfer, or discharge and relocation assistance to residents  
11 transferred or discharged under this subparagraph (b), and the  
12 Department may place relocation teams as provided in Section  
13 3-419 of this Act.

14 (c) When an identified offender is within the provisional  
15 admission period defined in Section 1-120.3. If the Identified  
16 Offender Report and Recommendation prepared under Section  
17 2-201.6 shows that the identified offender poses a serious  
18 threat or danger to the physical safety of other residents, the  
19 facility staff, or facility visitors in the admitting facility  
20 and the facility determines that it is unable to provide a safe  
21 environment for the other residents, the facility staff, or  
22 facility visitors, the facility shall transfer or discharge the  
23 identified offender within 3 days after its receipt of the  
24 Identified Offender Report and Recommendation.

25 (Source: P.A. 84-1322.)



1 (210 ILCS 45/3-501) (from Ch. 111 1/2, par. 4153-501)

2 Sec. 3-501. The Department may place an employee or agent  
3 to serve as a monitor in a facility or may petition the circuit  
4 court for appointment of a receiver for a facility, or both,  
5 when any of the following conditions exist:

6 (a) The facility is operating without a license;

7 (b) The Department has suspended, revoked or refused to  
8 renew the existing license of the facility;

9 (c) The facility is closing or has informed the  
10 Department that it intends to close and adequate  
11 arrangements for relocation of residents have not been made  
12 at least 30 days prior to closure;

13 (d) The Department determines that an emergency  
14 exists, whether or not it has initiated revocation or  
15 nonrenewal procedures, if because of the unwillingness or  
16 inability of the licensee to remedy the emergency the  
17 Department believes a monitor or receiver is necessary; ~~or~~

18 (e) The Department is notified that the facility is  
19 terminated or will not be renewed for participation in the  
20 federal reimbursement program under either Title XVIII or  
21 Title XIX of the Social Security Act; or ~~or~~

22 (f) The facility has been designated a distressed  
23 facility by the Department and does not have a consultant  
24 employed pursuant to subsection (f) of Section 3-304.2 and  
25 an acceptable plan of improvement, or the Department has  
26 reason to believe the facility is not complying with the

1       plan of improvement. Nothing in this paragraph (f) shall  
2       preclude the Department from placing a monitor in a  
3       facility if otherwise justified by law.

4       As used in subsection (d) and Section 3-503, "emergency"  
5       means a threat to the health, safety or welfare of a resident  
6       that the facility is unwilling or unable to correct.

7       (Source: P.A. 87-549.)

8               (210 ILCS 45/3-504) (from Ch. 111 1/2, par. 4153-504)

9       Sec. 3-504. The court shall hold a hearing within 5 days of  
10       the filing of the petition. The petition and notice of the  
11       hearing shall be served on the owner, administrator or  
12       designated agent of the facility as provided under the Civil  
13       Practice Law, or the petition and notice of hearing shall be  
14       posted in a conspicuous place in the facility not later than 3  
15       days before the time specified for the hearing, unless a  
16       different period is fixed by order of the court. The court  
17       shall appoint a receiver ~~for a limited time period, not to~~  
18       ~~exceed 180 days,~~ if it finds that:

19               (a) The facility is operating without a license;

20               (b) The Department has suspended, revoked or refused to  
21       renew the existing license of a facility;

22               (c) The facility is closing or has informed the Department  
23       that it intends to close and adequate arrangements for  
24       relocation of residents have not been made at least 30 days  
25       prior to closure; or

1 (d) An emergency exists, whether or not the Department has  
2 initiated revocation or nonrenewal procedures, if because of  
3 the unwillingness or inability of the licensee to remedy the  
4 emergency the appointment of a receiver is necessary.

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

6 (210 ILCS 45/3-808 new)

7 Sec. 3-808. Protocol for sexual assault victims; nursing  
8 home. The Department shall develop a protocol for the care and  
9 treatment of residents who have been sexually assaulted in a  
10 long term care facility or elsewhere.

11 (210 ILCS 45/3-809 new)

12 Sec. 3-809. Rules to implement changes. In developing rules  
13 and regulations to implement changes made by this amendatory  
14 Act of the 96th General Assembly, the Department shall seek the  
15 input of advocates for long term care facility residents,  
16 representatives of associations representing long term care  
17 facilities, and representatives of associations representing  
18 employees of long term care facilities.

19 (210 ILCS 45/3-810 new)

20 Sec. 3-810. Whistleblower protection.

21 (a) In this Section, "retaliatory action" means the  
22 reprimand, discharge, suspension, demotion, denial of  
23 promotion or transfer, or change in the terms and conditions of

1 employment of any employee of a facility that is taken in  
2 retaliation for the employee's involvement in a protected  
3 activity as set forth in paragraphs (1) through (3) of  
4 subsection (b).

5 (b) A facility shall not take any retaliatory action  
6 against an employee of the facility, including a nursing home  
7 administrator, because the employee does any of the following:

8 (1) Discloses or threatens to disclose to a supervisor  
9 or to a public body an activity, inaction, policy, or  
10 practice implemented by a facility that the employee  
11 reasonably believes is in violation of a law, rule, or  
12 regulation.

13 (2) Provides information to or testifies before any  
14 public body conducting an investigation, hearing, or  
15 inquiry into any violation of a law, rule, or regulation by  
16 a nursing home administrator.

17 (3) Assists or participates in a proceeding to enforce  
18 the provisions of this Act.

19 (c) A violation of this Section may be established only  
20 upon a finding that (i) the employee of the facility engaged in  
21 conduct described in subsection (b) of this Section and (ii)  
22 this conduct was a contributing factor in the retaliatory  
23 action alleged by the employee. There is no violation of this  
24 Section, however, if the facility demonstrates by clear and  
25 convincing evidence that it would have taken the same  
26 unfavorable personnel action in the absence of that conduct.

1       (d) The employee of the facility may be awarded all  
2 remedies necessary to make the employee whole and to prevent  
3 future violations of this Section. Remedies imposed by the  
4 court may include, but are not limited to, all of the  
5 following:

6           (1) Reinstatement of the employee to either the same  
7 position held before the retaliatory action or to an  
8 equivalent position.

9           (2) Two times the amount of back pay.

10          (3) Interest on the back pay.

11          (4) Reinstatement of full fringe benefits and  
12 seniority rights.

13          (5) Payment of reasonable costs and attorney's fees.

14       (e) Nothing in this Section shall be deemed to diminish the  
15 rights, privileges, or remedies of an employee of a facility  
16 under any other federal or State law, rule, or regulation or  
17 under any employment contract.

18       Section 30. The Hospital Licensing Act is amended by  
19 changing Sections 6.09 and 7 as follows:

20           (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

21           (Text of Section before amendment by P.A. 96-339)

22       Sec. 6.09. (a) In order to facilitate the orderly  
23 transition of aged and disabled patients from hospitals to  
24 post-hospital care, whenever a patient who qualifies for the

1 federal Medicare program is hospitalized, the patient shall be  
2 notified of discharge at least 24 hours prior to discharge from  
3 the hospital. With regard to pending discharges to a skilled  
4 nursing facility, the hospital must notify the case  
5 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at  
6 least 24 hours prior to discharge or, if home health services  
7 are ordered, the hospital must inform its designated case  
8 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of  
9 the pending discharge and must provide the patient with the  
10 case coordination unit's telephone number and other contact  
11 information.

12 (b) Every hospital shall develop procedures for a physician  
13 with medical staff privileges at the hospital or any  
14 appropriate medical staff member to provide the discharge  
15 notice prescribed in subsection (a) of this Section. The  
16 procedures must include prohibitions against discharging or  
17 referring a patient to any of the following if unlicensed,  
18 uncertified, or unregistered: (i) a board and care facility, as  
19 defined in the Board and Care Home Act; (ii) an assisted living  
20 and shared housing establishment, as defined in the Assisted  
21 Living and Shared Housing Act; (iii) a facility licensed under  
22 the Nursing Home Care Act; (iv) a supportive living facility,  
23 as defined in Section 5-5.01a of the Illinois Public Aid Code;  
24 or (v) a free-standing hospice facility licensed under the  
25 Hospice Program Licensing Act if licensure, certification, or  
26 registration is required. The Department of Public Health shall

1 annually provide hospitals with a list of licensed, certified,  
2 or registered board and care facilities, assisted living and  
3 shared housing establishments, nursing homes, supportive  
4 living facilities, and hospice facilities. Reliance upon this  
5 list by a hospital shall satisfy compliance with this  
6 requirement. The procedure may also include a waiver for any  
7 case in which a discharge notice is not feasible due to a short  
8 length of stay in the hospital by the patient, or for any case  
9 in which the patient voluntarily desires to leave the hospital  
10 before the expiration of the 24 hour period.

11 (c) At least 24 hours prior to discharge from the hospital,  
12 the patient shall receive written information on the patient's  
13 right to appeal the discharge pursuant to the federal Medicare  
14 program, including the steps to follow to appeal the discharge  
15 and the appropriate telephone number to call in case the  
16 patient intends to appeal the discharge.

17 (d) Before transfer of a patient to a long term care  
18 facility licensed under the Nursing Home Care Act where elderly  
19 persons reside, a hospital shall as soon as practicable  
20 initiate a name-based criminal history background check by  
21 electronic submission to the Department of State Police for all  
22 persons between the ages of 18 and 70 years; provided, however,  
23 that a hospital shall be required to initiate such a background  
24 check only with respect to patients who:

25 (1) are transferring to a long term care facility for  
26 the first time;

- 1           (2) have been in the hospital more than 5 days;  
2           (3) are reasonably expected to remain at the long term  
3           care facility for more than 30 days;  
4           (4) have a known history of serious mental illness or  
5           substance abuse; and  
6           (5) are independently ambulatory or mobile for more  
7           than a temporary period of time.

8           A hospital may also request a criminal history background  
9           check for a patient who does not meet any of the criteria set  
10           forth in items (1) through (5).

11           A hospital shall notify a long term care facility if the  
12           hospital has initiated a criminal history background check on a  
13           patient being discharged to that facility. In all circumstances  
14           in which the hospital is required by this subsection to  
15           initiate the criminal history background check, the transfer to  
16           the long term care facility may proceed regardless of the  
17           availability of criminal history results. Upon receipt of the  
18           results, the hospital shall promptly forward the results to the  
19           appropriate long term care facility. If the results of the  
20           background check are inconclusive, the hospital shall have no  
21           additional duty or obligation to seek additional information  
22           from, or about, the patient.

23           (Source: P.A. 94-335, eff. 7-26-05; 95-80, eff. 8-13-07;  
24           95-651, eff. 10-11-07; 95-876, eff. 8-21-08.)

25           (Text of Section after amendment by P.A. 96-339)



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2 transition of aged and disabled patients from hospitals to  
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20 referring a patient to any of the following if unlicensed,  
21 uncertified, or unregistered: (i) a board and care facility, as  
22 defined in the Board and Care Home Act; (ii) an assisted living  
23 and shared housing establishment, as defined in the Assisted  
24 Living and Shared Housing Act; (iii) a facility licensed under  
25 the Nursing Home Care Act or the MR/DD Community Care Act; (iv)  
26 a supportive living facility, as defined in Section 5-5.01a of

1 the Illinois Public Aid Code; or (v) a free-standing hospice  
2 facility licensed under the Hospice Program Licensing Act if  
3 licensure, certification, or registration is required. The  
4 Department of Public Health shall annually provide hospitals  
5 with a list of licensed, certified, or registered board and  
6 care facilities, assisted living and shared housing  
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8 facilities licensed under the MR/DD Community Care Act, and  
9 hospice facilities. Reliance upon this list by a hospital shall  
10 satisfy compliance with this requirement. The procedure may  
11 also include a waiver for any case in which a discharge notice  
12 is not feasible due to a short length of stay in the hospital  
13 by the patient, or for any case in which the patient  
14 voluntarily desires to leave the hospital before the expiration  
15 of the 24 hour period.

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17 the patient shall receive written information on the patient's  
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3 check only with respect to patients who:

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5 the first time;

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7 (3) are reasonably expected to remain at the long term  
8 care facility for more than 30 days;

9 (4) have a known history of serious mental illness or  
10 substance abuse; and

11 (5) are independently ambulatory or mobile for more  
12 than a temporary period of time.

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14 check for a patient who does not meet any of the criteria set  
15 forth in items (1) through (5).

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17 hospital has initiated a criminal history background check on a  
18 patient being discharged to that facility. In all circumstances  
19 in which the hospital is required by this subsection to  
20 initiate the criminal history background check, the transfer to  
21 the long term care facility may proceed regardless of the  
22 availability of criminal history results. Upon receipt of the  
23 results, the hospital shall promptly forward the results to the  
24 appropriate long term care facility. If the results of the  
25 background check are inconclusive, the hospital shall have no  
26 additional duty or obligation to seek additional information

1 from, or about, the patient.

2 (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;  
3 95-876, eff. 8-21-08; 96-339, eff. 7-1-10.)

4 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

5 Sec. 7. (a) The Director after notice and opportunity for  
6 hearing to the applicant or licensee may deny, suspend, or  
7 revoke a permit to establish a hospital or deny, suspend, or  
8 revoke a license to open, conduct, operate, and maintain a  
9 hospital in any case in which he finds that there has been a  
10 substantial failure to comply with the provisions of this Act,  
11 the Hospital Report Card Act, or the Illinois Adverse Health  
12 Care Events Reporting Law of 2005 or the standards, rules, and  
13 regulations established by virtue of any of those Acts. The  
14 Department may impose fines on hospitals, not to exceed \$500  
15 per occurrence, for failing to initiate a criminal background  
16 check on a patient that meets the criteria for  
17 hospital-initiated background checks. In assessing whether to  
18 impose such a fine, the Department shall consider various  
19 factors including, but not limited to, whether the hospital has  
20 engaged in a pattern or practice of failing to initiate  
21 criminal background checks. Money from fines shall be deposited  
22 into the Long Term Care Provider Fund.

23 (b) Such notice shall be effected by registered mail or by  
24 personal service setting forth the particular reasons for the  
25 proposed action and fixing a date, not less than 15 days from

1 the date of such mailing or service, at which time the  
2 applicant or licensee shall be given an opportunity for a  
3 hearing. Such hearing shall be conducted by the Director or by  
4 an employee of the Department designated in writing by the  
5 Director as Hearing Officer to conduct the hearing. On the  
6 basis of any such hearing, or upon default of the applicant or  
7 licensee, the Director shall make a determination specifying  
8 his findings and conclusions. In case of a denial to an  
9 applicant of a permit to establish a hospital, such  
10 determination shall specify the subsection of Section 6 under  
11 which the permit was denied and shall contain findings of fact  
12 forming the basis of such denial. A copy of such determination  
13 shall be sent by registered mail or served personally upon the  
14 applicant or licensee. The decision denying, suspending, or  
15 revoking a permit or a license shall become final 35 days after  
16 it is so mailed or served, unless the applicant or licensee,  
17 within such 35 day period, petitions for review pursuant to  
18 Section 13.

19 (c) The procedure governing hearings authorized by this  
20 Section shall be in accordance with rules promulgated by the  
21 Department and approved by the Hospital Licensing Board. A full  
22 and complete record shall be kept of all proceedings, including  
23 the notice of hearing, complaint, and all other documents in  
24 the nature of pleadings, written motions filed in the  
25 proceedings, and the report and orders of the Director and  
26 Hearing Officer. All testimony shall be reported but need not

1 be transcribed unless the decision is appealed pursuant to  
2 Section 13. A copy or copies of the transcript may be obtained  
3 by any interested party on payment of the cost of preparing  
4 such copy or copies.

5 (d) The Director or Hearing Officer shall upon his own  
6 motion, or on the written request of any party to the  
7 proceeding, issue subpoenas requiring the attendance and the  
8 giving of testimony by witnesses, and subpoenas duces tecum  
9 requiring the production of books, papers, records, or  
10 memoranda. All subpoenas and subpoenas duces tecum issued under  
11 the terms of this Act may be served by any person of full age.  
12 The fees of witnesses for attendance and travel shall be the  
13 same as the fees of witnesses before the Circuit Court of this  
14 State, such fees to be paid when the witness is excused from  
15 further attendance. When the witness is subpoenaed at the  
16 instance of the Director, or Hearing Officer, such fees shall  
17 be paid in the same manner as other expenses of the Department,  
18 and when the witness is subpoenaed at the instance of any other  
19 party to any such proceeding the Department may require that  
20 the cost of service of the subpoena or subpoena duces tecum and  
21 the fee of the witness be borne by the party at whose instance  
22 the witness is summoned. In such case, the Department in its  
23 discretion, may require a deposit to cover the cost of such  
24 service and witness fees. A subpoena or subpoena duces tecum  
25 issued as aforesaid shall be served in the same manner as a  
26 subpoena issued out of a court.

1           (e) Any Circuit Court of this State upon the application of  
2 the Director, or upon the application of any other party to the  
3 proceeding, may, in its discretion, compel the attendance of  
4 witnesses, the production of books, papers, records, or  
5 memoranda and the giving of testimony before the Director or  
6 Hearing Officer conducting an investigation or holding a  
7 hearing authorized by this Act, by an attachment for contempt,  
8 or otherwise, in the same manner as production of evidence may  
9 be compelled before the court.

10          (f) The Director or Hearing Officer, or any party in an  
11 investigation or hearing before the Department, may cause the  
12 depositions of witnesses within the State to be taken in the  
13 manner prescribed by law for like depositions in civil actions  
14 in courts of this State, and to that end compel the attendance  
15 of witnesses and the production of books, papers, records, or  
16 memoranda.

17          (Source: P.A. 93-563, eff. 1-1-04; 94-242, eff. 7-18-05.)

18          Section 33. The Medical Practice Act of 1987 is amended by  
19 changing Sections 23 and 36 as follows:

20           (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

21           (Section scheduled to be repealed on December 31, 2010)

22          Sec. 23. Reports relating to professional conduct and  
23 capacity.

24           (A) Entities required to report.

1           (1) Health care institutions. The chief administrator  
2           or executive officer of any health care institution  
3           licensed by the Illinois Department of Public Health shall  
4           report to the Disciplinary Board when any person's clinical  
5           privileges are terminated or are restricted based on a  
6           final determination, in accordance with that institution's  
7           by-laws or rules and regulations, that a person has either  
8           committed an act or acts which may directly threaten  
9           patient care, and not of an administrative nature, or that  
10          a person may be mentally or physically disabled in such a  
11          manner as to endanger patients under that person's care.  
12          Such officer also shall report if a person accepts  
13          voluntary termination or restriction of clinical  
14          privileges in lieu of formal action based upon conduct  
15          related directly to patient care and not of an  
16          administrative nature, or in lieu of formal action seeking  
17          to determine whether a person may be mentally or physically  
18          disabled in such a manner as to endanger patients under  
19          that person's care. The Medical Disciplinary Board shall,  
20          by rule, provide for the reporting to it of all instances  
21          in which a person, licensed under this Act, who is impaired  
22          by reason of age, drug or alcohol abuse or physical or  
23          mental impairment, is under supervision and, where  
24          appropriate, is in a program of rehabilitation. Such  
25          reports shall be strictly confidential and may be reviewed  
26          and considered only by the members of the Disciplinary



1 Board, or by authorized staff as provided by rules of the  
2 Disciplinary Board. Provisions shall be made for the  
3 periodic report of the status of any such person not less  
4 than twice annually in order that the Disciplinary Board  
5 shall have current information upon which to determine the  
6 status of any such person. Such initial and periodic  
7 reports of impaired physicians shall not be considered  
8 records within the meaning of The State Records Act and  
9 shall be disposed of, following a determination by the  
10 Disciplinary Board that such reports are no longer  
11 required, in a manner and at such time as the Disciplinary  
12 Board shall determine by rule. The filing of such reports  
13 shall be construed as the filing of a report for purposes  
14 of subsection (C) of this Section.

15 (2) Professional associations. The President or chief  
16 executive officer of any association or society, of persons  
17 licensed under this Act, operating within this State shall  
18 report to the Disciplinary Board when the association or  
19 society renders a final determination that a person has  
20 committed unprofessional conduct related directly to  
21 patient care or that a person may be mentally or physically  
22 disabled in such a manner as to endanger patients under  
23 that person's care.

24 (3) Professional liability insurers. Every insurance  
25 company which offers policies of professional liability  
26 insurance to persons licensed under this Act, or any other

1           entity which seeks to indemnify the professional liability  
2           of a person licensed under this Act, shall report to the  
3           Disciplinary Board the settlement of any claim or cause of  
4           action, or final judgment rendered in any cause of action,  
5           which alleged negligence in the furnishing of medical care  
6           by such licensed person when such settlement or final  
7           judgment is in favor of the plaintiff.

8           (4) State's Attorneys. The State's Attorney of each  
9           county shall report to the Disciplinary Board all instances  
10          in which a person licensed under this Act is convicted or  
11          otherwise found guilty of the commission of any felony. The  
12          State's Attorney of each county may report to the  
13          Disciplinary Board through a verified complaint any  
14          instance in which the State's Attorney believes that a  
15          physician has willfully violated the notice requirements  
16          of the Parental Notice of Abortion Act of 1995.

17          (5) State agencies. All agencies, boards, commissions,  
18          departments, or other instrumentalities of the government  
19          of the State of Illinois shall report to the Disciplinary  
20          Board any instance arising in connection with the  
21          operations of such agency, including the administration of  
22          any law by such agency, in which a person licensed under  
23          this Act has either committed an act or acts which may be a  
24          violation of this Act or which may constitute  
25          unprofessional conduct related directly to patient care or  
26          which indicates that a person licensed under this Act may

1           be mentally or physically disabled in such a manner as to  
2           endanger patients under that person's care.

3           (B) Mandatory reporting. All reports required by items  
4           (34), (35), and (36) of subsection (A) of Section 22 and by  
5           Section 23 shall be submitted to the Disciplinary Board in a  
6           timely fashion. The reports shall be filed in writing within 60  
7           days after a determination that a report is required under this  
8           Act. All reports shall contain the following information:

9           (1) The name, address and telephone number of the  
10          person making the report.

11          (2) The name, address and telephone number of the  
12          person who is the subject of the report.

13          (3) The name and date of birth of any patient or  
14          patients whose treatment is a subject of the report, if  
15          available, or other means of identification if such  
16          information is not available, identification of the  
17          hospital or other healthcare facility where the care at  
18          issue in the report was rendered, provided, however, no  
19          medical records may be revealed.

20          (4) A brief description of the facts which gave rise to  
21          the issuance of the report, including the dates of any  
22          occurrences deemed to necessitate the filing of the report.

23          (5) If court action is involved, the identity of the  
24          court in which the action is filed, along with the docket  
25          number and date of filing of the action.

26          (6) Any further pertinent information which the

1 reporting party deems to be an aid in the evaluation of the  
2 report.

3 The Disciplinary Board or Department may also exercise the  
4 power under Section 38 of this Act to subpoena copies of  
5 hospital or medical records in mandatory report cases alleging  
6 death or permanent bodily injury. Appropriate rules shall be  
7 adopted by the Department with the approval of the Disciplinary  
8 Board.

9 When the Department has received written reports  
10 concerning incidents required to be reported in items (34),  
11 (35), and (36) of subsection (A) of Section 22, the licensee's  
12 failure to report the incident to the Department under those  
13 items shall not be the sole grounds for disciplinary action.

14 Nothing contained in this Section shall act to in any way,  
15 waive or modify the confidentiality of medical reports and  
16 committee reports to the extent provided by law. Any  
17 information reported or disclosed shall be kept for the  
18 confidential use of the Disciplinary Board, the Medical  
19 Coordinators, the Disciplinary Board's attorneys, the medical  
20 investigative staff, and authorized clerical staff, as  
21 provided in this Act, and shall be afforded the same status as  
22 is provided information concerning medical studies in Part 21  
23 of Article VIII of the Code of Civil Procedure, except that the  
24 Department may disclose information and documents to a federal,  
25 State, or local law enforcement agency pursuant to a subpoena  
26 in an ongoing criminal investigation or to a health care

1 licensing body of this State or another state or jurisdiction  
2 pursuant to an official request made by that licensing body.  
3 Furthermore, information and documents disclosed to a federal,  
4 State, or local law enforcement agency may be used by that  
5 agency only for the investigation and prosecution of a criminal  
6 offense, or, in the case of disclosure to a health care  
7 licensing body, only for investigations and disciplinary  
8 action proceedings with regard to a license. Information and  
9 documents disclosed to the Department of Public Health may be  
10 used by that Department only for investigation and disciplinary  
11 action regarding the license of a health care institution  
12 licensed by the Department of Public Health.

13 (C) Immunity from prosecution. Any individual or  
14 organization acting in good faith, and not in a wilful and  
15 wanton manner, in complying with this Act by providing any  
16 report or other information to the Disciplinary Board or a peer  
17 review committee, or assisting in the investigation or  
18 preparation of such information, or by voluntarily reporting to  
19 the Disciplinary Board or a peer review committee information  
20 regarding alleged errors or negligence by a person licensed  
21 under this Act, or by participating in proceedings of the  
22 Disciplinary Board or a peer review committee, or by serving as  
23 a member of the Disciplinary Board or a peer review committee,  
24 shall not, as a result of such actions, be subject to criminal  
25 prosecution or civil damages.

26 (D) Indemnification. Members of the Disciplinary Board,

1 the Medical Coordinators, the Disciplinary Board's attorneys,  
2 the medical investigative staff, physicians retained under  
3 contract to assist and advise the medical coordinators in the  
4 investigation, and authorized clerical staff shall be  
5 indemnified by the State for any actions occurring within the  
6 scope of services on the Disciplinary Board, done in good faith  
7 and not wilful and wanton in nature. The Attorney General shall  
8 defend all such actions unless he or she determines either that  
9 there would be a conflict of interest in such representation or  
10 that the actions complained of were not in good faith or were  
11 wilful and wanton.

12 Should the Attorney General decline representation, the  
13 member shall have the right to employ counsel of his or her  
14 choice, whose fees shall be provided by the State, after  
15 approval by the Attorney General, unless there is a  
16 determination by a court that the member's actions were not in  
17 good faith or were wilful and wanton.

18 The member must notify the Attorney General within 7 days  
19 of receipt of notice of the initiation of any action involving  
20 services of the Disciplinary Board. Failure to so notify the  
21 Attorney General shall constitute an absolute waiver of the  
22 right to a defense and indemnification.

23 The Attorney General shall determine within 7 days after  
24 receiving such notice, whether he or she will undertake to  
25 represent the member.

26 (E) Deliberations of Disciplinary Board. Upon the receipt

1 of any report called for by this Act, other than those reports  
2 of impaired persons licensed under this Act required pursuant  
3 to the rules of the Disciplinary Board, the Disciplinary Board  
4 shall notify in writing, by certified mail, the person who is  
5 the subject of the report. Such notification shall be made  
6 within 30 days of receipt by the Disciplinary Board of the  
7 report.

8 The notification shall include a written notice setting  
9 forth the person's right to examine the report. Included in  
10 such notification shall be the address at which the file is  
11 maintained, the name of the custodian of the reports, and the  
12 telephone number at which the custodian may be reached. The  
13 person who is the subject of the report shall submit a written  
14 statement responding, clarifying, adding to, or proposing the  
15 amending of the report previously filed. The person who is the  
16 subject of the report shall also submit with the written  
17 statement any medical records related to the report. The  
18 statement and accompanying medical records shall become a  
19 permanent part of the file and must be received by the  
20 Disciplinary Board no more than 30 days after the date on which  
21 the person was notified by the Disciplinary Board of the  
22 existence of the original report.

23 The Disciplinary Board shall review all reports received by  
24 it, together with any supporting information and responding  
25 statements submitted by persons who are the subject of reports.  
26 The review by the Disciplinary Board shall be in a timely

1 manner but in no event, shall the Disciplinary Board's initial  
2 review of the material contained in each disciplinary file be  
3 less than 61 days nor more than 180 days after the receipt of  
4 the initial report by the Disciplinary Board.

5 When the Disciplinary Board makes its initial review of the  
6 materials contained within its disciplinary files, the  
7 Disciplinary Board shall, in writing, make a determination as  
8 to whether there are sufficient facts to warrant further  
9 investigation or action. Failure to make such determination  
10 within the time provided shall be deemed to be a determination  
11 that there are not sufficient facts to warrant further  
12 investigation or action.

13 Should the Disciplinary Board find that there are not  
14 sufficient facts to warrant further investigation, or action,  
15 the report shall be accepted for filing and the matter shall be  
16 deemed closed and so reported to the Secretary. The Secretary  
17 shall then have 30 days to accept the Medical Disciplinary  
18 Board's decision or request further investigation. The  
19 Secretary shall inform the Board in writing of the decision to  
20 request further investigation, including the specific reasons  
21 for the decision. The individual or entity filing the original  
22 report or complaint and the person who is the subject of the  
23 report or complaint shall be notified in writing by the  
24 Secretary of any final action on their report or complaint.

25 (F) Summary reports. The Disciplinary Board shall prepare,  
26 on a timely basis, but in no event less than once every other



1 month, a summary report of final actions taken upon  
2 disciplinary files maintained by the Disciplinary Board. The  
3 summary reports shall be made available to the public upon  
4 request and payment of the fees set by the Department. This  
5 publication may be made available to the public on the  
6 Department's Internet website.

7 (G) Any violation of this Section shall be a Class A  
8 misdemeanor.

9 (H) If any such person violates the provisions of this  
10 Section an action may be brought in the name of the People of  
11 the State of Illinois, through the Attorney General of the  
12 State of Illinois, for an order enjoining such violation or for  
13 an order enforcing compliance with this Section. Upon filing of  
14 a verified petition in such court, the court may issue a  
15 temporary restraining order without notice or bond and may  
16 preliminarily or permanently enjoin such violation, and if it  
17 is established that such person has violated or is violating  
18 the injunction, the court may punish the offender for contempt  
19 of court. Proceedings under this paragraph shall be in addition  
20 to, and not in lieu of, all other remedies and penalties  
21 provided for by this Section.

22 (Source: P.A. 94-677, eff. 8-25-05; 95-639, eff. 10-5-07.)

23 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

24 (Section scheduled to be repealed on December 31, 2010)

25 Sec. 36. Upon the motion of either the Department or the

1 Disciplinary Board or upon the verified complaint in writing of  
2 any person setting forth facts which, if proven, would  
3 constitute grounds for suspension or revocation under Section  
4 22 of this Act, the Department shall investigate the actions of  
5 any person, so accused, who holds or represents that they hold  
6 a license. Such person is hereinafter called the accused.

7 The Department shall, before suspending, revoking, placing  
8 on probationary status, or taking any other disciplinary action  
9 as the Department may deem proper with regard to any license at  
10 least 30 days prior to the date set for the hearing, notify the  
11 accused in writing of any charges made and the time and place  
12 for a hearing of the charges before the Disciplinary Board,  
13 direct them to file their written answer thereto to the  
14 Disciplinary Board under oath within 20 days after the service  
15 on them of such notice and inform them that if they fail to  
16 file such answer default will be taken against them and their  
17 license may be suspended, revoked, placed on probationary  
18 status, or have other disciplinary action, including limiting  
19 the scope, nature or extent of their practice, as the  
20 Department may deem proper taken with regard thereto.

21 Where a physician has been found, upon complaint and  
22 investigation of the Department, and after hearing, to have  
23 performed an abortion procedure in a wilful and wanton manner  
24 upon a woman who was not pregnant at the time such abortion  
25 procedure was performed, the Department shall automatically  
26 revoke the license of such physician to practice medicine in

1 Illinois.

2 Such written notice and any notice in such proceedings  
3 thereafter may be served by delivery of the same, personally,  
4 to the accused person, or by mailing the same by registered or  
5 certified mail to the address last theretofore specified by the  
6 accused in their last notification to the Department.

7 All information gathered by the Department during its  
8 investigation including information subpoenaed under Section  
9 23 or 38 of this Act and the investigative file shall be kept  
10 for the confidential use of the Secretary, Disciplinary Board,  
11 the Medical Coordinators, persons employed by contract to  
12 advise the Medical Coordinator or the Department, the  
13 Disciplinary Board's attorneys, the medical investigative  
14 staff, and authorized clerical staff, as provided in this Act  
15 and shall be afforded the same status as is provided  
16 information concerning medical studies in Part 21 of Article  
17 VIII of the Code of Civil Procedure, except that the Department  
18 may disclose information and documents to a federal, State, or  
19 local law enforcement agency pursuant to a subpoena in an  
20 ongoing criminal investigation to a health care licensing body  
21 of this State or another state or jurisdiction pursuant to an  
22 official request made by that licensing body. Furthermore,  
23 information and documents disclosed to a federal, State, or  
24 local law enforcement agency may be used by that agency only  
25 for the investigation and prosecution of a criminal offense or,  
26 in the case of disclosure to a health care licensing body, only

1 for investigations and disciplinary action proceedings with  
2 regard to a license issued by that licensing body.

3 (Source: P.A. 94-677, eff. 8-25-05.)

4 Section 35. The Nursing Home Administrators Licensing and  
5 Disciplinary Act is amended by changing Section 17 and adding  
6 Sections 17.1 and 38 as follows:

7 (225 ILCS 70/17) (from Ch. 111, par. 3667)

8 (Text of Section before amendment by P.A. 96-339)

9 (Section scheduled to be repealed on January 1, 2018)

10 Sec. 17. Grounds for disciplinary action.

11 (a) The Department may impose fines not to exceed \$10,000  
12 or may refuse to issue or to renew, or may revoke, suspend,  
13 place on probation, censure, reprimand or take other  
14 disciplinary or non-disciplinary action with regard to the  
15 license of any person, for any one or combination of the  
16 following causes:

17 (1) Intentional material misstatement in furnishing  
18 information to the Department.

19 (2) Conviction of or entry of a plea of guilty or nolo  
20 contendere to any crime that is a felony under the laws of  
21 the United States or any state or territory thereof or a  
22 misdemeanor of which an essential element is dishonesty or  
23 that is directly related to the practice of the profession  
24 of nursing home administration.

1           (3) Making any misrepresentation for the purpose of  
2 obtaining a license, or violating any provision of this  
3 Act.

4           (4) Immoral conduct in the commission of any act, such  
5 as sexual abuse or sexual misconduct, related to the  
6 licensee's practice.

7           (5) Failing to respond within 30 days, to a written  
8 request made by the Department for information.

9           (6) Engaging in dishonorable, unethical or  
10 unprofessional conduct of a character likely to deceive,  
11 defraud or harm the public.

12           (7) Habitual use or addiction to alcohol, narcotics,  
13 stimulants, or any other chemical agent or drug which  
14 results in the inability to practice with reasonable  
15 judgment, skill or safety.

16           (8) Discipline by another U.S. jurisdiction if at least  
17 one of the grounds for the discipline is the same or  
18 substantially equivalent to those set forth herein.

19           (9) A finding by the Department that the licensee,  
20 after having his or her license placed on probationary  
21 status has violated the terms of probation.

22           (10) Willfully making or filing false records or  
23 reports in his or her practice, including but not limited  
24 to false records filed with State agencies or departments.

25           (11) Physical illness, mental illness, or other  
26 impairment or disability, including, but not limited to,

1 deterioration through the aging process, or loss of motor  
2 skill that results in the inability to practice the  
3 profession with reasonable judgment, skill or safety.

4 (12) Disregard or violation of this Act or of any rule  
5 issued pursuant to this Act.

6 (13) Aiding or abetting another in the violation of  
7 this Act or any rule or regulation issued pursuant to this  
8 Act.

9 (14) Allowing one's license to be used by an unlicensed  
10 person.

11 (15) (Blank).

12 (16) Professional incompetence in the practice of  
13 nursing home administration.

14 (17) Conviction of a violation of Section 12-19 of the  
15 Criminal Code of 1961 for the abuse and gross neglect of a  
16 long term care facility resident.

17 (18) Violation of the Nursing Home Care Act or of any  
18 rule issued under the Nursing Home Care Act. A final  
19 adjudication of a Type "AA" violation of the Nursing Home  
20 Care Act made by the Illinois Department of Public Health,  
21 as identified by rule, relating to the hiring, training,  
22 planning, organizing, directing, or supervising the  
23 operation of a nursing home and a licensee's failure to  
24 comply with this Act or the rules adopted under this Act,  
25 shall create a rebuttable presumption of a violation of  
26 this subsection.

1           (19) Failure to report to the Department any adverse  
2           final action taken against the licensee by a licensing  
3           authority of another state, territory of the United States,  
4           or foreign country; or by any governmental or law  
5           enforcement agency; or by any court for acts or conduct  
6           similar to acts or conduct that would constitute grounds  
7           for disciplinary action under this Section.

8           (20) Failure to report to the Department the surrender  
9           of a license or authorization to practice as a nursing home  
10           administrator in another state or jurisdiction for acts or  
11           conduct similar to acts or conduct that would constitute  
12           grounds for disciplinary action under this Section.

13           (21) Failure to report to the Department any adverse  
14           judgment, settlement, or award arising from a liability  
15           claim related to acts or conduct similar to acts or conduct  
16           that would constitute grounds for disciplinary action  
17           under this Section.

18           All proceedings to suspend, revoke, place on probationary  
19           status, or take any other disciplinary action as the Department  
20           may deem proper, with regard to a license on any of the  
21           foregoing grounds, must be commenced within 5 years next after  
22           receipt by the Department of (i) a complaint alleging the  
23           commission of or notice of the conviction order for any of the  
24           acts described herein or (ii) a referral for investigation  
25           under Section 3-108 of the Nursing Home Care Act.

26           The entry of an order or judgment by any circuit court

1 establishing that any person holding a license under this Act  
2 is a person in need of mental treatment operates as a  
3 suspension of that license. That person may resume their  
4 practice only upon the entry of a Department order based upon a  
5 finding by the Board that they have been determined to be  
6 recovered from mental illness by the court and upon the Board's  
7 recommendation that they be permitted to resume their practice.

8 The Department, upon the recommendation of the Board, may  
9 adopt rules which set forth standards to be used in determining  
10 what constitutes:

11 (i) when a person will be deemed sufficiently  
12 rehabilitated to warrant the public trust;

13 (ii) dishonorable, unethical or unprofessional conduct  
14 of a character likely to deceive, defraud, or harm the  
15 public;

16 (iii) immoral conduct in the commission of any act  
17 related to the licensee's practice; and

18 (iv) professional incompetence in the practice of  
19 nursing home administration.

20 However, no such rule shall be admissible into evidence in  
21 any civil action except for review of a licensing or other  
22 disciplinary action under this Act.

23 In enforcing this Section, the Department or Board, upon a  
24 showing of a possible violation, may compel any individual  
25 licensed to practice under this Act, or who has applied for  
26 licensure pursuant to this Act, to submit to a mental or



1 physical examination, or both, as required by and at the  
2 expense of the Department. The examining physician or  
3 physicians shall be those specifically designated by the  
4 Department or Board. The Department or Board may order the  
5 examining physician to present testimony concerning this  
6 mental or physical examination of the licensee or applicant. No  
7 information shall be excluded by reason of any common law or  
8 statutory privilege relating to communications between the  
9 licensee or applicant and the examining physician. The  
10 individual to be examined may have, at his or her own expense,  
11 another physician of his or her choice present during all  
12 aspects of the examination. Failure of any individual to submit  
13 to mental or physical examination, when directed, shall be  
14 grounds for suspension of his or her license until such time as  
15 the individual submits to the examination if the Department  
16 finds, after notice and hearing, that the refusal to submit to  
17 the examination was without reasonable cause.

18 If the Department or Board finds an individual unable to  
19 practice because of the reasons set forth in this Section, the  
20 Department or Board shall require such individual to submit to  
21 care, counseling, or treatment by physicians approved or  
22 designated by the Department or Board, as a condition, term, or  
23 restriction for continued, reinstated, or renewed licensure to  
24 practice; or in lieu of care, counseling, or treatment, the  
25 Department may file, or the Board may recommend to the  
26 Department to file, a complaint to immediately suspend, revoke,

1 or otherwise discipline the license of the individual. Any  
2 individual whose license was granted pursuant to this Act or  
3 continued, reinstated, renewed, disciplined or supervised,  
4 subject to such terms, conditions or restrictions who shall  
5 fail to comply with such terms, conditions or restrictions  
6 shall be referred to the Secretary for a determination as to  
7 whether the licensee shall have his or her license suspended  
8 immediately, pending a hearing by the Department. In instances  
9 in which the Secretary immediately suspends a license under  
10 this Section, a hearing upon such person's license must be  
11 convened by the Board within 30 days after such suspension and  
12 completed without appreciable delay. The Department and Board  
13 shall have the authority to review the subject administrator's  
14 record of treatment and counseling regarding the impairment, to  
15 the extent permitted by applicable federal statutes and  
16 regulations safeguarding the confidentiality of medical  
17 records.

18 An individual licensed under this Act, affected under this  
19 Section, shall be afforded an opportunity to demonstrate to the  
20 Department or Board that he or she can resume practice in  
21 compliance with acceptable and prevailing standards under the  
22 provisions of his or her license.

23 (b) Any individual or organization acting in good faith,  
24 and not in a wilful and wanton manner, in complying with this  
25 Act by providing any report or other information to the  
26 Department, or assisting in the investigation or preparation of

1 such information, or by participating in proceedings of the  
2 Department, or by serving as a member of the Board, shall not,  
3 as a result of such actions, be subject to criminal prosecution  
4 or civil damages.

5 (c) Members of the Board, and persons retained under  
6 contract to assist and advise in an investigation, shall be  
7 indemnified by the State for any actions occurring within the  
8 scope of services on or for the Board, done in good faith and  
9 not wilful and wanton in nature. The Attorney General shall  
10 defend all such actions unless he or she determines either that  
11 there would be a conflict of interest in such representation or  
12 that the actions complained of were not in good faith or were  
13 wilful and wanton.

14 Should the Attorney General decline representation, a  
15 person entitled to indemnification under this Section shall  
16 have the right to employ counsel of his or her choice, whose  
17 fees shall be provided by the State, after approval by the  
18 Attorney General, unless there is a determination by a court  
19 that the member's actions were not in good faith or were wilful  
20 and wanton.

21 A person entitled to indemnification under this Section  
22 must notify the Attorney General within 7 days of receipt of  
23 notice of the initiation of any action involving services of  
24 the Board. Failure to so notify the Attorney General shall  
25 constitute an absolute waiver of the right to a defense and  
26 indemnification.

1           The Attorney General shall determine within 7 days after  
2 receiving such notice, whether he or she will undertake to  
3 represent a person entitled to indemnification under this  
4 Section.

5           (d) The determination by a circuit court that a licensee is  
6 subject to involuntary admission or judicial admission as  
7 provided in the Mental Health and Developmental Disabilities  
8 Code, as amended, operates as an automatic suspension. Such  
9 suspension will end only upon a finding by a court that the  
10 patient is no longer subject to involuntary admission or  
11 judicial admission and issues an order so finding and  
12 discharging the patient; and upon the recommendation of the  
13 Board to the Secretary that the licensee be allowed to resume  
14 his or her practice.

15           (e) The Department may refuse to issue or may suspend the  
16 license of any person who fails to file a return, or to pay the  
17 tax, penalty or interest shown in a filed return, or to pay any  
18 final assessment of tax, penalty or interest, as required by  
19 any tax Act administered by the Department of Revenue, until  
20 such time as the requirements of any such tax Act are  
21 satisfied.

22           (f) The Department of Public Health shall transmit to the  
23 Department a list of those facilities which receive an "A"  
24 violation as defined in Section 1-129 of the Nursing Home Care  
25 Act.

26           (Source: P.A. 95-703, eff. 12-31-07.)

1 (Text of Section after amendment by P.A. 96-339)

2 (Section scheduled to be repealed on January 1, 2018)

3 Sec. 17. Grounds for disciplinary action.

4 (a) The Department may impose fines not to exceed \$10,000  
5 or may refuse to issue or to renew, or may revoke, suspend,  
6 place on probation, censure, reprimand or take other  
7 disciplinary or non-disciplinary action with regard to the  
8 license of any person, for any one or combination of the  
9 following causes:

10 (1) Intentional material misstatement in furnishing  
11 information to the Department.

12 (2) Conviction of or entry of a plea of guilty or nolo  
13 contendere to any crime that is a felony under the laws of  
14 the United States or any state or territory thereof or a  
15 misdemeanor of which an essential element is dishonesty or  
16 that is directly related to the practice of the profession  
17 of nursing home administration.

18 (3) Making any misrepresentation for the purpose of  
19 obtaining a license, or violating any provision of this  
20 Act.

21 (4) Immoral conduct in the commission of any act, such  
22 as sexual abuse or sexual misconduct, related to the  
23 licensee's practice.

24 (5) Failing to respond within 30 days, to a written  
25 request made by the Department for information.

1           (6) Engaging in dishonorable, unethical or  
2 unprofessional conduct of a character likely to deceive,  
3 defraud or harm the public.

4           (7) Habitual use or addiction to alcohol, narcotics,  
5 stimulants, or any other chemical agent or drug which  
6 results in the inability to practice with reasonable  
7 judgment, skill or safety.

8           (8) Discipline by another U.S. jurisdiction if at least  
9 one of the grounds for the discipline is the same or  
10 substantially equivalent to those set forth herein.

11           (9) A finding by the Department that the licensee,  
12 after having his or her license placed on probationary  
13 status has violated the terms of probation.

14           (10) Willfully making or filing false records or  
15 reports in his or her practice, including but not limited  
16 to false records filed with State agencies or departments.

17           (11) Physical illness, mental illness, or other  
18 impairment or disability, including, but not limited to,  
19 deterioration through the aging process, or loss of motor  
20 skill that results in the inability to practice the  
21 profession with reasonable judgment, skill or safety.

22           (12) Disregard or violation of this Act or of any rule  
23 issued pursuant to this Act.

24           (13) Aiding or abetting another in the violation of  
25 this Act or any rule or regulation issued pursuant to this  
26 Act.

1           (14) Allowing one's license to be used by an unlicensed  
2 person.

3           (15) (Blank).

4           (16) Professional incompetence in the practice of  
5 nursing home administration.

6           (17) Conviction of a violation of Section 12-19 of the  
7 Criminal Code of 1961 for the abuse and gross neglect of a  
8 long term care facility resident.

9           (18) Violation of the Nursing Home Care Act or the  
10 MR/DD Community Care Act or of any rule issued under the  
11 Nursing Home Care Act or the MR/DD Community Care Act. A  
12 final adjudication of a Type "AA" violation of the Nursing  
13 Home Care Act made by the Illinois Department of Public  
14 Health, as identified by rule, relating to the hiring,  
15 training, planning, organizing, directing, or supervising  
16 the operation of a nursing home and a licensee's failure to  
17 comply with this Act or the rules adopted under this Act,  
18 shall create a rebuttable presumption of a violation of  
19 this subsection.

20           (19) Failure to report to the Department any adverse  
21 final action taken against the licensee by a licensing  
22 authority of another state, territory of the United States,  
23 or foreign country; or by any governmental or law  
24 enforcement agency; or by any court for acts or conduct  
25 similar to acts or conduct that would constitute grounds  
26 for disciplinary action under this Section.

1           (20) Failure to report to the Department the surrender  
2           of a license or authorization to practice as a nursing home  
3           administrator in another state or jurisdiction for acts or  
4           conduct similar to acts or conduct that would constitute  
5           grounds for disciplinary action under this Section.

6           (21) Failure to report to the Department any adverse  
7           judgment, settlement, or award arising from a liability  
8           claim related to acts or conduct similar to acts or conduct  
9           that would constitute grounds for disciplinary action  
10           under this Section.

11           All proceedings to suspend, revoke, place on probationary  
12           status, or take any other disciplinary action as the Department  
13           may deem proper, with regard to a license on any of the  
14           foregoing grounds, must be commenced within 5 years next after  
15           receipt by the Department of (i) a complaint alleging the  
16           commission of or notice of the conviction order for any of the  
17           acts described herein or (ii) a referral for investigation  
18           under Section 3-108 of the Nursing Home Care Act.

19           The entry of an order or judgment by any circuit court  
20           establishing that any person holding a license under this Act  
21           is a person in need of mental treatment operates as a  
22           suspension of that license. That person may resume their  
23           practice only upon the entry of a Department order based upon a  
24           finding by the Board that they have been determined to be  
25           recovered from mental illness by the court and upon the Board's  
26           recommendation that they be permitted to resume their practice.



1           The Department, upon the recommendation of the Board, may  
2 adopt rules which set forth standards to be used in determining  
3 what constitutes:

4           (i) when a person will be deemed sufficiently  
5 rehabilitated to warrant the public trust;

6           (ii) dishonorable, unethical or unprofessional conduct  
7 of a character likely to deceive, defraud, or harm the  
8 public;

9           (iii) immoral conduct in the commission of any act  
10 related to the licensee's practice; and

11           (iv) professional incompetence in the practice of  
12 nursing home administration.

13           However, no such rule shall be admissible into evidence in  
14 any civil action except for review of a licensing or other  
15 disciplinary action under this Act.

16           In enforcing this Section, the Department or Board, upon a  
17 showing of a possible violation, may compel any individual  
18 licensed to practice under this Act, or who has applied for  
19 licensure pursuant to this Act, to submit to a mental or  
20 physical examination, or both, as required by and at the  
21 expense of the Department. The examining physician or  
22 physicians shall be those specifically designated by the  
23 Department or Board. The Department or Board may order the  
24 examining physician to present testimony concerning this  
25 mental or physical examination of the licensee or applicant. No  
26 information shall be excluded by reason of any common law or

1 statutory privilege relating to communications between the  
2 licensee or applicant and the examining physician. The  
3 individual to be examined may have, at his or her own expense,  
4 another physician of his or her choice present during all  
5 aspects of the examination. Failure of any individual to submit  
6 to mental or physical examination, when directed, shall be  
7 grounds for suspension of his or her license until such time as  
8 the individual submits to the examination if the Department  
9 finds, after notice and hearing, that the refusal to submit to  
10 the examination was without reasonable cause.

11 If the Department or Board finds an individual unable to  
12 practice because of the reasons set forth in this Section, the  
13 Department or Board shall require such individual to submit to  
14 care, counseling, or treatment by physicians approved or  
15 designated by the Department or Board, as a condition, term, or  
16 restriction for continued, reinstated, or renewed licensure to  
17 practice; or in lieu of care, counseling, or treatment, the  
18 Department may file, or the Board may recommend to the  
19 Department to file, a complaint to immediately suspend, revoke,  
20 or otherwise discipline the license of the individual. Any  
21 individual whose license was granted pursuant to this Act or  
22 continued, reinstated, renewed, disciplined or supervised,  
23 subject to such terms, conditions or restrictions who shall  
24 fail to comply with such terms, conditions or restrictions  
25 shall be referred to the Secretary for a determination as to  
26 whether the licensee shall have his or her license suspended

1 immediately, pending a hearing by the Department. In instances  
2 in which the Secretary immediately suspends a license under  
3 this Section, a hearing upon such person's license must be  
4 convened by the Board within 30 days after such suspension and  
5 completed without appreciable delay. The Department and Board  
6 shall have the authority to review the subject administrator's  
7 record of treatment and counseling regarding the impairment, to  
8 the extent permitted by applicable federal statutes and  
9 regulations safeguarding the confidentiality of medical  
10 records.

11 An individual licensed under this Act, affected under this  
12 Section, shall be afforded an opportunity to demonstrate to the  
13 Department or Board that he or she can resume practice in  
14 compliance with acceptable and prevailing standards under the  
15 provisions of his or her license.

16 (b) Any individual or organization acting in good faith,  
17 and not in a wilful and wanton manner, in complying with this  
18 Act by providing any report or other information to the  
19 Department, or assisting in the investigation or preparation of  
20 such information, or by participating in proceedings of the  
21 Department, or by serving as a member of the Board, shall not,  
22 as a result of such actions, be subject to criminal prosecution  
23 or civil damages.

24 (c) Members of the Board, and persons retained under  
25 contract to assist and advise in an investigation, shall be  
26 indemnified by the State for any actions occurring within the

1 scope of services on or for the Board, done in good faith and  
2 not wilful and wanton in nature. The Attorney General shall  
3 defend all such actions unless he or she determines either that  
4 there would be a conflict of interest in such representation or  
5 that the actions complained of were not in good faith or were  
6 wilful and wanton.

7 Should the Attorney General decline representation, a  
8 person entitled to indemnification under this Section shall  
9 have the right to employ counsel of his or her choice, whose  
10 fees shall be provided by the State, after approval by the  
11 Attorney General, unless there is a determination by a court  
12 that the member's actions were not in good faith or were wilful  
13 and wanton.

14 A person entitled to indemnification under this Section  
15 must notify the Attorney General within 7 days of receipt of  
16 notice of the initiation of any action involving services of  
17 the Board. Failure to so notify the Attorney General shall  
18 constitute an absolute waiver of the right to a defense and  
19 indemnification.

20 The Attorney General shall determine within 7 days after  
21 receiving such notice, whether he or she will undertake to  
22 represent a person entitled to indemnification under this  
23 Section.

24 (d) The determination by a circuit court that a licensee is  
25 subject to involuntary admission or judicial admission as  
26 provided in the Mental Health and Developmental Disabilities

1 Code, as amended, operates as an automatic suspension. Such  
2 suspension will end only upon a finding by a court that the  
3 patient is no longer subject to involuntary admission or  
4 judicial admission and issues an order so finding and  
5 discharging the patient; and upon the recommendation of the  
6 Board to the Secretary that the licensee be allowed to resume  
7 his or her practice.

8 (e) The Department may refuse to issue or may suspend the  
9 license of any person who fails to file a return, or to pay the  
10 tax, penalty or interest shown in a filed return, or to pay any  
11 final assessment of tax, penalty or interest, as required by  
12 any tax Act administered by the Department of Revenue, until  
13 such time as the requirements of any such tax Act are  
14 satisfied.

15 (f) The Department of Public Health shall transmit to the  
16 Department a list of those facilities which receive an "A"  
17 violation as defined in Section 1-129 of the Nursing Home Care  
18 Act.

19 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10.)

20 (225 ILCS 70/17.1 new)

21 Sec. 17.1. Reports of violations of Act or other conduct.

22 (a) The owner or licensee of a long term care facility  
23 licensed under the Nursing Home Care Act who employs or  
24 contracts with a licensee under this Act shall report to the  
25 Department any instance of which he or she has knowledge

1 arising in connection with operations of the health care  
2 institution, including the administration of any law by the  
3 institution, in which a licensee under this Act has either  
4 committed an act or acts which may constitute a violation of  
5 this Act or unprofessional conduct related directly to patient  
6 care, or which may indicate that the licensee may be mentally  
7 or physically disabled in such a manner as to endanger patients  
8 under that licensee's care. Additionally, every nursing home  
9 shall report to the Department any instance when a licensee is  
10 terminated for cause which would constitute a violation of this  
11 Act. The Department may take disciplinary or non-disciplinary  
12 action if the termination is based upon unprofessional conduct  
13 related to planning, organizing, directing, or supervising the  
14 operation of a nursing home as defined by this Act or other  
15 conduct by the licensee that would be a violation of this Act  
16 or rules.

17 For the purposes of this subsection, "owner" does not mean  
18 the owner of the real estate or physical plant who does not  
19 hold management or operational control of the licensed long  
20 term care facility.

21 (b) Any insurance company that offers policies of  
22 professional liability insurance to licensees, or any other  
23 entity that seeks to indemnify the professional liability of a  
24 licensee, shall report the settlement of any claim or adverse  
25 final judgment rendered in any action that alleged negligence  
26 in planning, organizing, directing, or supervising the

1 operation of a nursing home by the licensee.

2 (c) The State's Attorney of each county shall report to the  
3 Department each instance in which a licensee is convicted of or  
4 enters a plea of guilty or nolo contendere to any crime that is  
5 a felony, or of which an essential element is dishonesty, or  
6 that is directly related to the practice of the profession of  
7 nursing home administration.

8 (d) Any agency, board, commission, department, or other  
9 instrumentality of the government of the State of Illinois  
10 shall report to the Department any instance arising in  
11 connection with the operations of the agency, including the  
12 administration of any law by the agency, in which a licensee  
13 under this Act has either committed an act or acts which may  
14 constitute a violation of this Act or unprofessional conduct  
15 related directly to planning, organizing, directing or  
16 supervising the operation of a nursing home, or which may  
17 indicate that a licensee may be mentally or physically disabled  
18 in such a manner as to endanger others.

19 (e) All reports required by items (19), (20), and (21) of  
20 subsection (a) of Section 17 and by this Section 17.1 shall be  
21 submitted to the Department in a timely fashion. The reports  
22 shall be filed in writing within 60 days after a determination  
23 that a report is required under this Section. All reports shall  
24 contain the following information:

25 (1) The name, address, and telephone number of the  
26 person making the report.

1           (2) The name, address, and telephone number of the  
2           person who is the subject of the report.

3           (3) The name and date of birth of any person or persons  
4           whose treatment is a subject of the report, or other means  
5           of identification if that information is not available, and  
6           identification of the nursing home facility where the care  
7           at issue in the report was rendered.

8           (4) A brief description of the facts which gave rise to  
9           the issuance of the report, including the dates of any  
10           occurrences deemed to necessitate the filing of the report.

11           (5) If court action is involved, the identity of the  
12           court in which the action is filed, along with the docket  
13           number and the date the action was filed.

14           (6) Any further pertinent information that the  
15           reporting party deems to be an aid in evaluating the  
16           report.

17           If the Department receives a written report concerning an  
18           incident required to be reported under item (19), (20), or (21)  
19           of subsection (a) of Section 17, then the licensee's failure to  
20           report the incident to the Department within 60 days may not be  
21           the sole ground for any disciplinary action against the  
22           licensee.

23           (f) Any individual or organization acting in good faith,  
24           and not in a wilful and wanton manner, in complying with this  
25           Section by providing any report or other information to the  
26           Department, by assisting in the investigation or preparation of



1 such information, by voluntarily reporting to the Department  
2 information regarding alleged errors or negligence by a  
3 licensee, or by participating in proceedings of the Department,  
4 shall not, as a result of such actions, be subject to criminal  
5 prosecution or civil damages.

6 (g) Upon the receipt of any report required by this  
7 Section, the Department shall notify in writing, by certified  
8 mail, the person who is the subject of the report. The  
9 notification shall be made within 30 days after the  
10 Department's receipt of the report.

11 The notification shall include a written notice setting  
12 forth the person's right to examine the report. The  
13 notification shall also include the address at which the file  
14 is maintained, the name of the custodian of the file, and the  
15 telephone number at which the custodian may be reached. The  
16 person who is the subject of the report shall submit a written  
17 statement responding, clarifying, adding to, or proposing the  
18 amending of the report previously filed. The statement shall  
19 become a permanent part of the file and must be received by the  
20 Department no more than 30 days after the date on which the  
21 person was notified by the Department of the existence of the  
22 original report.

23 The Department shall review a report received by it,  
24 together with any supporting information and responding  
25 statements submitted by the person who is the subject of the  
26 report. The review by the Department shall be in a timely

1 manner, but in no event shall the Department's initial review  
2 of the material contained in each disciplinary file last less  
3 than 61 days nor more than 180 days after the receipt of the  
4 initial report by the Department.

5 When the Department makes its initial review of the  
6 materials contained within its disciplinary files, the  
7 Department shall, in writing, make a determination as to  
8 whether there are sufficient facts to warrant further  
9 investigation or action. Failure to make such a determination  
10 within the time provided shall be deemed to be a determination  
11 that there are not sufficient facts to warrant further  
12 investigation or action. The Department shall notify the person  
13 who is the subject of the report of any final action on the  
14 report.

15 (h) A violation of this Section is a Class A misdemeanor.

16 (i) If any person or entity violates this Section, then an  
17 action may be brought in the name of the People of the State of  
18 Illinois, through the Attorney General of the State of  
19 Illinois, for an order enjoining the violation or for an order  
20 enforcing compliance with this Section. Upon filing of a  
21 verified petition in the court, the court may issue a temporary  
22 restraining order without notice or bond and may preliminarily  
23 or permanently enjoin the violation. If it is established that  
24 the person or entity has violated or is violating the  
25 injunction, the court may punish the offender for contempt of  
26 court. Proceedings under this subsection (i) shall be in

1 addition to, and not in lieu of, all other remedies and  
2 penalties provided for by this Section.

3 (225 ILCS 70/38 new)

4 Sec. 38. Whistleblower protection. Any individual or  
5 organization acting in good faith, and not in a willful and  
6 wanton manner, in complying with this Act by providing any  
7 report or other information to the Department, or assisting in  
8 the investigation or preparation of such information, or by  
9 voluntarily reporting to the Department information regarding  
10 alleged errors or negligence by a licensee, or by participating  
11 in proceedings of the Department, shall not, as a result of  
12 such actions, be subject to criminal prosecution or civil  
13 damages.

14 Section 40. The Illinois Public Aid Code is amended by  
15 changing Section 5-5.12 and adding Sections 5-27 and 5-28 as  
16 follows:

17 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

18 Sec. 5-5.12. Pharmacy payments.

19 (a) Every request submitted by a pharmacy for reimbursement  
20 under this Article for prescription drugs provided to a  
21 recipient of aid under this Article shall include the name of  
22 the prescriber or an acceptable identification number as  
23 established by the Department.

1 (b) Pharmacies providing prescription drugs under this  
2 Article shall be reimbursed at a rate which shall include a  
3 professional dispensing fee as determined by the Illinois  
4 Department, plus the current acquisition cost of the  
5 prescription drug dispensed. The Illinois Department shall  
6 update its information on the acquisition costs of all  
7 prescription drugs no less frequently than every 30 days.  
8 However, the Illinois Department may set the rate of  
9 reimbursement for the acquisition cost, by rule, at a  
10 percentage of the current average wholesale acquisition cost.

11 (c) (Blank).

12 (d) The Department shall not impose requirements for prior  
13 approval based on a preferred drug list for anti-retroviral,  
14 anti-hemophilic factor concentrates, or any atypical  
15 antipsychotics, conventional antipsychotics, or  
16 anticonvulsants used for the treatment of serious mental  
17 illnesses until 30 days after it has conducted a study of the  
18 impact of such requirements on patient care and submitted a  
19 report to the Speaker of the House of Representatives and the  
20 President of the Senate.

21 (e) The Department shall cooperate with the Department of  
22 Public Health and the Department of Human Services Division of  
23 Mental Health in identifying psychotropic medications that,  
24 when given in a particular form, manner, duration, or frequency  
25 (including "as needed") in a dosage, or in conjunction with  
26 other psychotropic medications to a nursing home resident, may

1 constitute a chemical restraint or an "unnecessary drug" as  
2 defined by the Nursing Home Care Act or Titles XVIII and XIX of  
3 the Social Security Act and the implementing rules and  
4 regulations. The Department shall require prior approval for  
5 any such medication prescribed for a nursing home resident that  
6 appears to be a chemical restraint or an unnecessary drug. The  
7 Department shall consult with the Department of Human Services  
8 Division of Mental Health in developing a protocol and criteria  
9 for deciding whether to grant such prior approval.

10 (Source: P.A. 93-106, eff. 7-8-03; 94-48, eff. 7-1-05.)

11 (305 ILCS 5/5-27 new)

12 Sec. 5-27. Nursing home workgroup.

13 (a) The Director of the Department of Healthcare and Family  
14 Services shall convene a workgroup composed of representatives  
15 of nursing home resident advocates, representatives of long  
16 term care providers, representatives of labor and  
17 employee-representation organizations, and all relevant State  
18 agencies, for the purpose of developing a proposal to be  
19 presented to the General Assembly no later than November 1,  
20 2010. The proposal shall address the following issues:

21 (1) Staffing standards necessary to the provision of  
22 care and services and the preservation of resident safety.

23 (2) A comprehensive rate review giving consideration  
24 to adopting an evidence-based rate methodology.

25 (3) The development of a provider assessment.

1       (b) This Section is repealed, and the workgroup shall be  
2       dissolved, on January 1, 2011.

3           (305 ILCS 5/5-28 new)

4       Sec. 5-28. Community transition resources. The Department  
5       of Healthcare and Family Services, in collaboration with all  
6       relevant agencies, shall develop a Community Transition Plan to  
7       allow nursing facility residents who are determined to be  
8       appropriate for transition to the community to access or  
9       acquire resources to support the transition. These strategies  
10       may include, but need not be limited to, enhancement of the  
11       Community Home Maintenance Allowance, retention of income from  
12       work, and incorporation of community transition services into  
13       existing home and community-based waiver programs.

14       Section 93. Intent. Nothing in this Act is intended to  
15       apply to any facility that is subject to licensure under the  
16       MR/DD Community Care Act on or after July 1, 2010.

17       Section 95. No acceleration or delay. Where this Act makes  
18       changes in a statute that is represented in this Act by text  
19       that is not yet or no longer in effect (for example, a Section  
20       represented by multiple versions), the use of that text does  
21       not accelerate or delay the taking effect of (i) the changes  
22       made by this Act or (ii) provisions derived from any other  
23       Public Act.

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.