



Sen. Heather Steans

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FISCAL NOTE ACT
MAY APPLY

09600SB0685sam001

LRB096 06749 KTG 38252 a

1 AMENDMENT TO SENATE BILL 685

2 AMENDMENT NO. _____. Amend Senate Bill 685 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Act on the Aging is amended by
5 changing Sections 4.03 and 4.04 and by adding Section 4.04b as
6 follows:

7 (20 ILCS 105/4.03) (from Ch. 23, par. 6104.03)

8 Sec. 4.03. The Department on Aging, in cooperation with the
9 Department of Human Services and any other appropriate State,
10 local or federal agency, shall, without regard to income
11 guidelines, establish a nursing home prescreening program to
12 determine whether any persons ~~Alzheimer's Disease and related~~
13 ~~disorders victims, and persons who are deemed as blind or~~
14 ~~disabled as defined by the Social Security Act and~~ who are in
15 need of long term care, may be satisfactorily cared for in
16 their homes through the use of home and community based

1 services. Responsibility for prescreening shall be vested with
2 case coordination units or any agencies designated by the
3 Department. Prescreening shall occur: (i) when hospital
4 discharge planners have advised the case coordination unit of
5 the imminent risk of nursing home placement of a patient who
6 meets the above criteria and in advance of discharge of the
7 patient; or (ii) when a case coordination unit has been advised
8 of the imminent risk of nursing home placement of an individual
9 in the community. The individual who is prescreened shall be
10 informed of all appropriate options, including placement in a
11 nursing home and the availability of in-home and
12 community-based services and shall be advised of her or his
13 right to refuse nursing home, in-home, community-based, or all
14 services. All persons admitted to a nursing home facility who
15 remain in the facility for a period of 90 days shall be
16 re-screened at the end of the 90 day period to assess their
17 continuing need for nursing facility care and shall be advised
18 of all other available care options. Case coordination units
19 under contract with the Department may charge a fee for the
20 prescreening provided under this Section and the fee shall be
21 no greater than the cost of such services to the case
22 coordination unit. At the time of each prescreening, case
23 coordination units shall provide information regarding the
24 Office of State Long Term Care Ombudsman's Residents Right to
25 Know database as authorized in subsection (c-5) of Section
26 4.04.

1 (Source: P.A. 95-80, eff. 8-13-07; 95-823, eff. 1-1-09; 96-328,
2 eff. 8-11-09.)

3 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

4 Sec. 4.04. Long Term Care Ombudsman Program.

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

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

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

15 (i) Enter any long term care facility or assisted
16 living or shared housing establishment or supportive
17 living facility;

18 (ii) Communicate privately and without restriction
19 with any resident, regardless of age, who consents to
20 the communication;

21 (iii) Seek consent to communicate privately and
22 without restriction with any resident, regardless of
23 age;

24 (iv) Inspect the clinical and other records of a
25 resident, regardless of age, with the express written

1 consent of the resident;

2 (v) Observe all areas of the long term care
3 facility or supportive living facilities, assisted
4 living or shared housing establishment except the
5 living area of any resident who protests the
6 observation.

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

15 (2.5) "Assisted living establishment" and "shared
16 housing establishment" have the meanings given those terms
17 in Section 10 of the Assisted Living and Shared Housing
18 Act.

19 (2.7) "Supportive living facility" means a facility
20 established under Section 5-5.01a of the Illinois Public
21 Aid Code.

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

1 (3.1) "Ombudsman" means any designated representative
2 of a regional long term care ombudsman program; provided
3 that the representative, whether he is paid for or
4 volunteers his ombudsman services, shall be qualified and
5 designated by the Office to perform the duties of an
6 ombudsman as specified by the Department in rules and in
7 accordance with the provisions of the Older Americans Act
8 of 1965, as now or hereafter amended.

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

16 The Department, in consultation with the Office, shall
17 promulgate administrative rules in accordance with the
18 provisions of the Older Americans Act of 1965, as now or
19 hereafter amended, to establish the responsibilities of the
20 Department and the Office of State Long Term Care Ombudsman and
21 the designated regional Ombudsman programs. The administrative
22 rules shall include the responsibility of the Office and
23 designated regional programs to investigate and resolve
24 complaints made by or on behalf of residents of long term care
25 facilities, supportive living facilities, and assisted living
26 and shared housing establishments, including the option to

1 serve residents under the age of 60, relating to actions,
2 inaction, or decisions of providers, or their representatives,
3 of long term care facilities, of supported living facilities,
4 of assisted living and shared housing establishments, of public
5 agencies, or of social services agencies, which may adversely
6 affect the health, safety, welfare, or rights of such
7 residents. A complaint made by or on behalf of a resident who
8 has thereafter died may be pursued by the Office and designated
9 regional programs if necessary to provide documentation to a
10 federal agency, another state agency, or to law enforcement
11 authorities; or if the Office or a designated regional program
12 has a good faith belief that an issue raised by the complaint
13 may be adversely affecting the health, safety, welfare, or
14 rights of another resident. The Office and designated regional
15 programs may represent all residents, but are not required by
16 this Act to represent persons under 60 years of age, except to
17 the extent required by federal law. When necessary and
18 appropriate, representatives of the Office shall refer
19 complaints to the appropriate regulatory State agency. The
20 Department, in consultation with the Office, shall cooperate
21 with the Department of Human Services and other State agencies
22 in providing information and training to designated regional
23 long term care ombudsman programs about the appropriate
24 assessment and treatment (including information about
25 appropriate supportive services, treatment options, and
26 assessment of rehabilitation potential) of the residents they

1 serve, including children, persons with mental illness (other
2 than Alzheimer's disease and related disorders), and persons
3 with developmental disabilities.

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

14 (c-3) Consent. Prior to representing a resident, an
15 ombudsman must obtain the resident's written or oral consent to
16 act on that resident's behalf. In the event oral consent is
17 given, such consent must be contemporaneously documented by the
18 ombudsman. If the resident is unable to give consent, the
19 ombudsman may obtain the resident's consent from a duly
20 authorized guardian or agent of the resident. If the resident's
21 authorized guardian or agent refuses to give consent or is
22 unavailable to give consent after the ombudsman has made a good
23 faith effort to contact the authorized guardian or agent, the
24 regional ombudsman shall consult with the Office of State Long
25 Term Care Ombudsman. If following this consultation, the Office
26 decides that representation is proper, the ombudsman shall

1 represent the resident. This representation may include
2 requesting or appealing, on behalf of the resident, any
3 administrative decision, including involuntary discharges.

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

6 (1) In collaboration with the Attorney General, create
7 a Consumer Choice Information Report form to be completed
8 by all licensed long term care facilities to aid
9 Illinoisans and their families in making informed choices
10 about long term care. The Office shall create a Consumer
11 Choice Information Report for each type of licensed long
12 term care facility.

13 (2) Develop a database of Consumer Choice Information
14 Reports completed by licensed long term care facilities
15 that includes information in the following consumer
16 categories:

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

18 (B) Special Services and Amenities.

19 (C) Staffing.

20 (D) Facility Statistics and Resident Demographics.

21 (E) Ownership and Administration.

22 (F) Safety and Security.

23 (G) Meals and Nutrition.

24 (H) Rooms, Furnishings, and Equipment.

25 (I) Family, Volunteer, and Visitation Provisions.

26 (3) Make this information accessible to the public,

1 including on the Internet by means of a hyperlink labeled
2 "Resident's Right to Know" on the Office's World Wide Web
3 home page.

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

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

8 (6) Include in the Office's Consumer Choice
9 Information Report for each type of licensed long term care
10 facility additional information on each licensed long term
11 care facility in the State of Illinois as well as
12 information regarding each facility's compliance with the
13 relevant State and federal statutes, rules, and standards;
14 customer satisfaction surveys; and information generated
15 from quality measures developed by the Centers for Medicare
16 and Medicaid Services. Each of the following facilities
17 shall annually pay to the Department on Aging to be
18 deposited into the Long Term Care Ombudsman Fund the sum of
19 \$400:

20 (A) A licensed facility as defined in Section 1-113
21 of the Nursing Home Care Act.

22 (B) A supportive living facility as defined in
23 Section 5-5.01a of the Illinois Public Aid Code.

24 (C) An assisted living or shared housing
25 establishment as defined in Section 10 of the Assisted
26 Living and Shared Housing Act.

1 (d) Access and visitation rights.

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

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

14 (ii) permit representatives of the Office, with
15 the permission of the resident's legal representative
16 or legal guardian, to examine a resident's clinical and
17 other records, regardless of the age of the resident,
18 and if a resident is unable to consent to such review,
19 and has no legal guardian, permit representatives of
20 the Office appropriate access, as defined by the
21 Department, in consultation with the Office, in
22 administrative rules, to the resident's records.
23 Access to a resident's records shall include access to
24 the records of a deceased resident, if, prior to the
25 resident's death, the resident or the resident's legal
26 representative or legal guardian made a complaint to or

1 requested assistance from the Office or a designated
2 regional program, and one of the following
3 circumstances exist: (a) the complaint or request for
4 assistance was about an issue which the Office or a
5 designated regional program has a good faith belief is
6 related to the resident's death; (b) access is
7 necessary to provide documentation to a federal
8 agency, to another State agency, or to law enforcement
9 authorities; (c) the Office or a designated regional
10 program has a good faith belief that an issue raised by
11 the complaint or request for assistance may be
12 adversely affecting the health, safety, welfare, or
13 rights of another resident.

14 (2) Each long term care facility, supportive living
15 facility, assisted living establishment, and shared
16 housing establishment shall display, in multiple,
17 conspicuous public places within the facility accessible
18 to both visitors and residents and in an easily readable
19 format, the address and phone number of the Office of the
20 Long Term Care Ombudsman, in a manner prescribed by the
21 Office.

22 (e) Immunity. An ombudsman or any representative of the
23 Office participating in the good faith performance of his or
24 her official duties shall have immunity from any liability
25 (civil, criminal or otherwise) in any proceedings (civil,
26 criminal or otherwise) brought as a consequence of the

1 performance of his official duties.

2 (f) Business offenses.

3 (1) No person shall:

4 (i) Intentionally prevent, interfere with, or
5 attempt to impede in any way any representative of the
6 Office in the performance of his official duties under
7 this Act and the Older Americans Act of 1965; or

8 (ii) Intentionally retaliate, discriminate
9 against, or effect reprisals against any long term care
10 facility resident or employee for contacting or
11 providing information to any representative of the
12 Office.

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

15 (3) The Director of Aging, in consultation with the
16 Office, shall notify the State's Attorney of the county in
17 which the long term care facility, supportive living
18 facility, or assisted living or shared housing
19 establishment is located, or the Attorney General, of any
20 violations of this Section.

21 (g) Confidentiality of records and identities. The
22 Department shall establish procedures for the disclosure by the
23 State Ombudsman or the regional ombudsmen entities of files
24 maintained by the program. The procedures shall provide that
25 the files and records may be disclosed only at the discretion
26 of the State Long Term Care Ombudsman or the person designated

1 by the State Ombudsman to disclose the files and records, and
2 the procedures shall prohibit the disclosure of the identity of
3 any complainant, resident, witness, or employee of a long term
4 care provider unless:

5 (1) the complainant, resident, witness, or employee of
6 a long term care provider or his or her legal
7 representative consents to the disclosure and the consent
8 is in writing;

9 (2) the complainant, resident, witness, or employee of
10 a long term care provider gives consent orally; and the
11 consent is documented contemporaneously in writing in
12 accordance with such requirements as the Department shall
13 establish; ~~or~~

14 (3) the disclosure is required by court order; or

15 (4) in the case of a deceased resident, prior to his or
16 her death, the resident or the resident's legal
17 representative or legal guardian made a complaint to or
18 requested assistance from the Office or a designated
19 regional program, and one of the following circumstances
20 exist: (i) the complaint or request for assistance was
21 about an issue which the Office or program has a good faith
22 belief is related to the resident's death; (ii) disclosure
23 is necessary to provide documentation to a federal agency,
24 to another State agency, or to law enforcement authorities;
25 or (iii) the Office or a designated regional program has a
26 good faith belief that disclosure is necessary because the

1 complaint or request for assistance raises an issue that
2 may be adversely affecting the health, safety, welfare, or
3 rights of another resident.

4 (h) Legal representation. The Attorney General shall
5 provide legal representation to any representative of the
6 Office against whom suit or other legal action is brought in
7 connection with the performance of the representative's
8 official duties, in accordance with the State Employee
9 Indemnification Act.

10 (i) Treatment by prayer and spiritual means. Nothing in
11 this Act shall be construed to authorize or require the medical
12 supervision, regulation or control of remedial care or
13 treatment of any resident in a long term care facility operated
14 exclusively by and for members or adherents of any church or
15 religious denomination the tenets and practices of which
16 include reliance solely upon spiritual means through prayer for
17 healing.

18 (j) The Long Term Care Ombudsman Fund is created as a
19 special fund in the State treasury to receive moneys for the
20 express purposes of this Section. All interest earned on moneys
21 in the fund shall be credited to the fund. All bed fees
22 collected under Section 4.04b of this Act shall be deposited
23 into the fund. Moneys contained in the fund shall be used to
24 support the purposes of this Section, including converting the
25 costs of operating the State Long Term Care Ombudsman Program.
26 Not less than 80% of the amount appropriated from the fund in

1 each fiscal year shall be distributed to the regional long term
2 care ombudsman programs.

3 All fees collected under paragraph (6) of subsection (c-5)
4 of this Section shall be deposited into the fund and shall be
5 used to compile and publish the "Consumer Choice Information
6 Report".

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

9 (20 ILCS 105/4.04b new)

10 Sec. 4.04b. Facility bed fees.

11 (a) Each of the following facilities shall annually pay to
12 the Department on Aging to be deposited into the Long Term Care
13 Ombudsman Fund the sum of \$7 for each bed maintained by the
14 facility for use by a resident during any part of the previous
15 fiscal year:

16 (1) A licensed facility as defined in Section 1-113 of
17 the Nursing Home Care Act.

18 (2) A supportive living facility as defined in Section
19 5-5.01a of the Illinois Public Aid Code.

20 (3) An assisted living or shared housing establishment
21 as defined in Section 10 of the Assisted Living and Shared
22 Housing Act.

23 (b) The Department, in consultation with the Office of
24 State Long Term Care Ombudsman, shall promulgate
25 administrative rules to establish the forms, deadlines, and

1 procedures for the notification of facilities subject to this
2 Section and the collection of payments required by this
3 Section.

4 (c) A facility that fails to pay the required bed fee
5 within 90 days after the established deadline shall be liable
6 for a penalty equal to 2 times the fee amount.

7 Section 10. The Mental Health and Developmental
8 Disabilities Administrative Act is amended by changing Section
9 15 as follows:

10 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

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

12 Sec. 15. Before any person is released from a facility
13 operated by the State pursuant to an absolute discharge or a
14 conditional discharge from hospitalization under this Act, the
15 facility director of the facility in which such person is
16 hospitalized shall determine that such person is not currently
17 in need of hospitalization and:

18 (a) is able to live independently in the community; or

19 (b) requires further oversight and supervisory care
20 for which arrangements have been made with responsible
21 relatives or supervised residential program approved by
22 the Department; or

23 (c) requires further personal care or general
24 oversight as defined by the Nursing Home Care Act, for

1 which placement arrangements have been made with a suitable
2 family home or other licensed facility approved by the
3 Department under this Section; or

4 (d) requires community mental health services for
5 which arrangements have been made with a community mental
6 health provider in accordance with criteria, standards,
7 and procedures promulgated by rule.

8 No person released from a facility operated by the State
9 pursuant to an absolute discharge or conditional discharge from
10 hospitalization under this Act shall be placed in any long term
11 care facility classified as an institution for mental diseases
12 under federal Medicaid law.

13 Such determination shall be made in writing and shall
14 become a part of the facility record of such absolutely or
15 conditionally discharged person. When the determination
16 indicates that the condition of the person to be granted an
17 absolute discharge or a conditional discharge is described
18 under subparagraph (c) or (d) of this Section, the name and
19 address of the continuing care facility or home to which such
20 person is to be released shall be entered in the facility
21 record. Where a discharge from a mental health facility is made
22 under subparagraph (c), the Department shall assign the person
23 so discharged to an existing community based not-for-profit
24 agency for participation in day activities suitable to the
25 person's needs, such as but not limited to social and
26 vocational rehabilitation, and other recreational, educational

1 and financial activities unless the community based
2 not-for-profit agency is unqualified to accept such
3 assignment. Where the clientele of any not-for-profit agency
4 increases as a result of assignments under this amendatory Act
5 of 1977 by more than 3% over the prior year, the Department
6 shall fully reimburse such agency for the costs of providing
7 services to such persons in excess of such 3% increase. The
8 Department shall keep written records detailing how many
9 persons have been assigned to a community based not-for-profit
10 agency and how many persons were not so assigned because the
11 community based agency was unable to accept the assignments, in
12 accordance with criteria, standards, and procedures
13 promulgated by rule. Whenever a community based agency is found
14 to be unable to accept the assignments, the name of the agency
15 and the reason for the finding shall be included in the report.

16 Insofar as desirable in the interests of the former
17 recipient, the facility, program or home in which the
18 discharged person is to be placed shall be located in or near
19 the community in which the person resided prior to
20 hospitalization or in the community in which the person's
21 family or nearest next of kin presently reside. Placement of
22 the discharged person in facilities, programs or homes located
23 outside of this State shall not be made by the Department
24 unless there are no appropriate facilities, programs or homes
25 available within this State. Out-of-state placements shall be
26 subject to return of recipients so placed upon the availability

1 of facilities, programs or homes within this State to
2 accommodate these recipients, except where placement in a
3 contiguous state results in locating a recipient in a facility
4 or program closer to the recipient's home or family. If an
5 appropriate facility or program becomes available equal to or
6 closer to the recipient's home or family, the recipient shall
7 be returned to and placed at the appropriate facility or
8 program within this State.

9 To place any person who is under a program of the
10 Department at board in a suitable family home or in such other
11 facility or program as the Department may consider desirable.
12 The Department may place in licensed nursing homes, sheltered
13 care homes, or homes for the aged those persons whose
14 behavioral manifestations and medical and nursing care needs
15 are such as to be substantially indistinguishable from persons
16 already living in such facilities. Prior to any placement by
17 the Department under this Section, a determination shall be
18 made by the personnel of the Department, as to the capability
19 and suitability of such facility to adequately meet the needs
20 of the person to be discharged. When specialized programs are
21 necessary in order to enable persons in need of supervised
22 living to develop and improve in the community, the Department
23 shall place such persons only in specialized residential care
24 facilities which shall meet Department standards including
25 restricted admission policy, special staffing and programming
26 for social and vocational rehabilitation, in addition to the

1 requirements of the appropriate State licensing agency. The
2 Department shall not place any new person in a facility the
3 license of which has been revoked or not renewed on grounds of
4 inadequate programming, staffing, or medical or adjunctive
5 services, regardless of the pendency of an action for
6 administrative review regarding such revocation or failure to
7 renew. Before the Department may transfer any person to a
8 licensed nursing home, sheltered care home or home for the aged
9 or place any person in a specialized residential care facility
10 the Department shall notify the person to be transferred, or a
11 responsible relative of such person, in writing, at least 30
12 days before the proposed transfer, with respect to all the
13 relevant facts concerning such transfer, except in cases of
14 emergency when such notice is not required. If either the
15 person to be transferred or a responsible relative of such
16 person objects to such transfer, in writing to the Department,
17 at any time after receipt of notice and before the transfer,
18 the facility director of the facility in which the person was a
19 recipient shall immediately schedule a hearing at the facility
20 with the presence of the facility director, the person who
21 objected to such proposed transfer, and a psychiatrist who is
22 familiar with the record of the person to be transferred. Such
23 person to be transferred or a responsible relative may be
24 represented by such counsel or interested party as he may
25 appoint, who may present such testimony with respect to the
26 proposed transfer. Testimony presented at such hearing shall

1 become a part of the facility record of the
2 person-to-be-transferred. The record of testimony shall be
3 held in the person-to-be-transferred's record in the central
4 files of the facility. If such hearing is held a transfer may
5 only be implemented, if at all, in accordance with the results
6 of such hearing. Within 15 days after such hearing the facility
7 director shall deliver his findings based on the record of the
8 case and the testimony presented at the hearing, by registered
9 or certified mail, to the parties to such hearing. The findings
10 of the facility director shall be deemed a final administrative
11 decision of the Department. For purposes of this Section, "case
12 of emergency" means those instances in which the health of the
13 person to be transferred is imperiled and the most appropriate
14 mental health care or medical care is available at a licensed
15 nursing home, sheltered care home or home for the aged or a
16 specialized residential care facility.

17 Prior to placement of any person in a facility under this
18 Section the Department shall ensure that an appropriate
19 training plan for staff is provided by the facility. Said
20 training may include instruction and demonstration by
21 Department personnel qualified in the area of mental illness or
22 mental retardation, as applicable to the person to be placed.
23 Training may be given both at the facility from which the
24 recipient is transferred and at the facility receiving the
25 recipient, and may be available on a continuing basis
26 subsequent to placement. In a facility providing services to

1 former Department recipients, training shall be available as
2 necessary for facility staff. Such training will be on a
3 continuing basis as the needs of the facility and recipients
4 change and further training is required.

5 The Department shall not place any person in a facility
6 which does not have appropriately trained staff in sufficient
7 numbers to accommodate the recipient population already at the
8 facility. As a condition of further or future placements of
9 persons, the Department shall require the employment of
10 additional trained staff members at the facility where said
11 persons are to be placed. The Secretary, or his or her
12 designate, shall establish written guidelines for placement of
13 persons in facilities under this Act. The Department shall keep
14 written records detailing which facilities have been
15 determined to have staff who have been appropriately trained by
16 the Department and all training which it has provided or
17 required under this Section.

18 Bills for the support for a person boarded out shall be
19 payable monthly out of the proper maintenance funds and shall
20 be audited as any other accounts of the Department. If a person
21 is placed in a facility or program outside the Department, the
22 Department may pay the actual costs of residence, treatment or
23 maintenance in such facility and may collect such actual costs
24 or a portion thereof from the recipient or the estate of a
25 person placed in accordance with this Section.

26 Other than those placed in a family home the Department

1 shall cause all persons who are placed in a facility, as
2 defined by the Nursing Home Care Act, or in designated
3 community living situations or programs, to be visited at least
4 once during the first month following placement, and once every
5 month thereafter for the first year following placement when
6 indicated, but at least quarterly. After the first year, the
7 Department shall determine at what point the appropriate
8 licensing entity for the facility or designated community
9 living situation or program will assume the responsibility of
10 ensuring that appropriate services are being provided to the
11 resident. Once that responsibility is assumed, the Department
12 may discontinue such visits. If a long term care facility has
13 periodic care plan conferences, the visitor may participate in
14 those conferences, if such participation is approved by the
15 resident or the resident's guardian. Visits shall be made by
16 qualified and trained Department personnel, or their designee,
17 in the area of mental health or developmental disabilities
18 applicable to the person visited, and shall be made on a more
19 frequent basis when indicated. The Department may not use as
20 designee any personnel connected with or responsible to the
21 representatives of any facility in which persons who have been
22 transferred under this Section are placed. In the course of
23 such visit there shall be consideration of the following areas,
24 but not limited thereto: effects of transfer on physical and
25 mental health of the person, sufficiency of nursing care and
26 medical coverage required by the person, sufficiency of staff

1 personnel and ability to provide basic care for the person,
2 social, recreational and programmatic activities available for
3 the person, and other appropriate aspects of the person's
4 environment.

5 A report containing the above observations shall be made to
6 the Department, to the licensing agency, and to any other
7 appropriate agency subsequent to each visitation. The report
8 shall contain recommendations to improve the care and treatment
9 of the resident, as necessary, which shall be reviewed by the
10 facility's interdisciplinary team and the resident or the
11 resident's legal guardian.

12 Upon the complaint of any person placed in accordance with
13 this Section or any responsible citizen or upon discovery that
14 such person has been abused, neglected, or improperly cared
15 for, or that the placement does not provide the type of care
16 required by the recipient's current condition, the Department
17 immediately shall investigate, and determine if the
18 well-being, health, care, or safety of any person is affected
19 by any of the above occurrences, and if any one of the above
20 occurrences is verified, the Department shall remove such
21 person at once to a facility of the Department or to another
22 facility outside the Department, provided such person's needs
23 can be met at said facility. The Department may also provide
24 any person placed in accordance with this Section who is
25 without available funds, and who is permitted to engage in
26 employment outside the facility, such sums for the

1 transportation, and other expenses as may be needed by him
2 until he receives his wages for such employment.

3 The Department shall promulgate rules and regulations
4 governing the purchase of care for persons who are wards of or
5 who are receiving services from the Department. Such rules and
6 regulations shall apply to all monies expended by any agency of
7 the State of Illinois for services rendered by any person,
8 corporate entity, agency, governmental agency or political
9 subdivision whether public or private outside of the Department
10 whether payment is made through a contractual, per-diem or
11 other arrangement. No funds shall be paid to any person,
12 corporation, agency, governmental entity or political
13 subdivision without compliance with such rules and
14 regulations.

15 The rules and regulations governing purchase of care shall
16 describe categories and types of service deemed appropriate for
17 purchase by the Department.

18 Any provider of services under this Act may elect to
19 receive payment for those services, and the Department is
20 authorized to arrange for that payment, by means of direct
21 deposit transmittals to the service provider's account
22 maintained at a bank, savings and loan association, or other
23 financial institution. The financial institution shall be
24 approved by the Department, and the deposits shall be in
25 accordance with rules and regulations adopted by the
26 Department.

1 (Source: P.A. 93-636, eff. 6-1-04.)

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

3 Sec. 15. Before any person is released from a facility
4 operated by the State pursuant to an absolute discharge or a
5 conditional discharge from hospitalization under this Act, the
6 facility director of the facility in which such person is
7 hospitalized shall determine that such person is not currently
8 in need of hospitalization and:

9 (a) is able to live independently in the community; or

10 (b) requires further oversight and supervisory care
11 for which arrangements have been made with responsible
12 relatives or supervised residential program approved by
13 the Department; or

14 (c) requires further personal care or general
15 oversight as defined by the MR/DD Community Care Act, for
16 which placement arrangements have been made with a suitable
17 family home or other licensed facility approved by the
18 Department under this Section; or

19 (d) requires community mental health services for
20 which arrangements have been made with a community mental
21 health provider in accordance with criteria, standards,
22 and procedures promulgated by rule.

23 No person released from a facility operated by the State
24 pursuant to an absolute discharge or conditional discharge from
25 hospitalization under this Act shall be placed in any long term

1 care facility classified as an institution for mental diseases
2 under federal Medicaid law.

3 Such determination shall be made in writing and shall
4 become a part of the facility record of such absolutely or
5 conditionally discharged person. When the determination
6 indicates that the condition of the person to be granted an
7 absolute discharge or a conditional discharge is described
8 under subparagraph (c) or (d) of this Section, the name and
9 address of the continuing care facility or home to which such
10 person is to be released shall be entered in the facility
11 record. Where a discharge from a mental health facility is made
12 under subparagraph (c), the Department shall assign the person
13 so discharged to an existing community based not-for-profit
14 agency for participation in day activities suitable to the
15 person's needs, such as but not limited to social and
16 vocational rehabilitation, and other recreational, educational
17 and financial activities unless the community based
18 not-for-profit agency is unqualified to accept such
19 assignment. Where the clientele of any not-for-profit agency
20 increases as a result of assignments under this amendatory Act
21 of 1977 by more than 3% over the prior year, the Department
22 shall fully reimburse such agency for the costs of providing
23 services to such persons in excess of such 3% increase. The
24 Department shall keep written records detailing how many
25 persons have been assigned to a community based not-for-profit
26 agency and how many persons were not so assigned because the

1 community based agency was unable to accept the assignments, in
2 accordance with criteria, standards, and procedures
3 promulgated by rule. Whenever a community based agency is found
4 to be unable to accept the assignments, the name of the agency
5 and the reason for the finding shall be included in the report.

6 Insofar as desirable in the interests of the former
7 recipient, the facility, program or home in which the
8 discharged person is to be placed shall be located in or near
9 the community in which the person resided prior to
10 hospitalization or in the community in which the person's
11 family or nearest next of kin presently reside. Placement of
12 the discharged person in facilities, programs or homes located
13 outside of this State shall not be made by the Department
14 unless there are no appropriate facilities, programs or homes
15 available within this State. Out-of-state placements shall be
16 subject to return of recipients so placed upon the availability
17 of facilities, programs or homes within this State to
18 accommodate these recipients, except where placement in a
19 contiguous state results in locating a recipient in a facility
20 or program closer to the recipient's home or family. If an
21 appropriate facility or program becomes available equal to or
22 closer to the recipient's home or family, the recipient shall
23 be returned to and placed at the appropriate facility or
24 program within this State.

25 To place any person who is under a program of the
26 Department at board in a suitable family home or in such other

1 facility or program as the Department may consider desirable.
2 The Department may place in licensed nursing homes, sheltered
3 care homes, or homes for the aged those persons whose
4 behavioral manifestations and medical and nursing care needs
5 are such as to be substantially indistinguishable from persons
6 already living in such facilities. Prior to any placement by
7 the Department under this Section, a determination shall be
8 made by the personnel of the Department, as to the capability
9 and suitability of such facility to adequately meet the needs
10 of the person to be discharged. When specialized programs are
11 necessary in order to enable persons in need of supervised
12 living to develop and improve in the community, the Department
13 shall place such persons only in specialized residential care
14 facilities which shall meet Department standards including
15 restricted admission policy, special staffing and programming
16 for social and vocational rehabilitation, in addition to the
17 requirements of the appropriate State licensing agency. The
18 Department shall not place any new person in a facility the
19 license of which has been revoked or not renewed on grounds of
20 inadequate programming, staffing, or medical or adjunctive
21 services, regardless of the pendency of an action for
22 administrative review regarding such revocation or failure to
23 renew. Before the Department may transfer any person to a
24 licensed nursing home, sheltered care home or home for the aged
25 or place any person in a specialized residential care facility
26 the Department shall notify the person to be transferred, or a

1 responsible relative of such person, in writing, at least 30
2 days before the proposed transfer, with respect to all the
3 relevant facts concerning such transfer, except in cases of
4 emergency when such notice is not required. If either the
5 person to be transferred or a responsible relative of such
6 person objects to such transfer, in writing to the Department,
7 at any time after receipt of notice and before the transfer,
8 the facility director of the facility in which the person was a
9 recipient shall immediately schedule a hearing at the facility
10 with the presence of the facility director, the person who
11 objected to such proposed transfer, and a psychiatrist who is
12 familiar with the record of the person to be transferred. Such
13 person to be transferred or a responsible relative may be
14 represented by such counsel or interested party as he may
15 appoint, who may present such testimony with respect to the
16 proposed transfer. Testimony presented at such hearing shall
17 become a part of the facility record of the
18 person-to-be-transferred. The record of testimony shall be
19 held in the person-to-be-transferred's record in the central
20 files of the facility. If such hearing is held a transfer may
21 only be implemented, if at all, in accordance with the results
22 of such hearing. Within 15 days after such hearing the facility
23 director shall deliver his findings based on the record of the
24 case and the testimony presented at the hearing, by registered
25 or certified mail, to the parties to such hearing. The findings
26 of the facility director shall be deemed a final administrative

1 decision of the Department. For purposes of this Section, "case
2 of emergency" means those instances in which the health of the
3 person to be transferred is imperiled and the most appropriate
4 mental health care or medical care is available at a licensed
5 nursing home, sheltered care home or home for the aged or a
6 specialized residential care facility.

7 Prior to placement of any person in a facility under this
8 Section the Department shall ensure that an appropriate
9 training plan for staff is provided by the facility. Said
10 training may include instruction and demonstration by
11 Department personnel qualified in the area of mental illness or
12 mental retardation, as applicable to the person to be placed.
13 Training may be given both at the facility from which the
14 recipient is transferred and at the facility receiving the
15 recipient, and may be available on a continuing basis
16 subsequent to placement. In a facility providing services to
17 former Department recipients, training shall be available as
18 necessary for facility staff. Such training will be on a
19 continuing basis as the needs of the facility and recipients
20 change and further training is required.

21 The Department shall not place any person in a facility
22 which does not have appropriately trained staff in sufficient
23 numbers to accommodate the recipient population already at the
24 facility. As a condition of further or future placements of
25 persons, the Department shall require the employment of
26 additional trained staff members at the facility where said

1 persons are to be placed. The Secretary, or his or her
2 designate, shall establish written guidelines for placement of
3 persons in facilities under this Act. The Department shall keep
4 written records detailing which facilities have been
5 determined to have staff who have been appropriately trained by
6 the Department and all training which it has provided or
7 required under this Section.

8 Bills for the support for a person boarded out shall be
9 payable monthly out of the proper maintenance funds and shall
10 be audited as any other accounts of the Department. If a person
11 is placed in a facility or program outside the Department, the
12 Department may pay the actual costs of residence, treatment or
13 maintenance in such facility and may collect such actual costs
14 or a portion thereof from the recipient or the estate of a
15 person placed in accordance with this Section.

16 Other than those placed in a family home the Department
17 shall cause all persons who are placed in a facility, as
18 defined by the MR/DD Community Care Act, or in designated
19 community living situations or programs, to be visited at least
20 once during the first month following placement, and once every
21 month thereafter for the first year following placement when
22 indicated, but at least quarterly. After the first year, the
23 Department shall determine at what point the appropriate
24 licensing entity for the facility or designated community
25 living situation or program will assume the responsibility of
26 ensuring that appropriate services are being provided to the

1 resident. Once that responsibility is assumed, the Department
2 may discontinue such visits. If a long term care facility has
3 periodic care plan conferences, the visitor may participate in
4 those conferences, if such participation is approved by the
5 resident or the resident's guardian. Visits shall be made by
6 qualified and trained Department personnel, or their designee,
7 in the area of mental health or developmental disabilities
8 applicable to the person visited, and shall be made on a more
9 frequent basis when indicated. The Department may not use as
10 designee any personnel connected with or responsible to the
11 representatives of any facility in which persons who have been
12 transferred under this Section are placed. In the course of
13 such visit there shall be consideration of the following areas,
14 but not limited thereto: effects of transfer on physical and
15 mental health of the person, sufficiency of nursing care and
16 medical coverage required by the person, sufficiency of staff
17 personnel and ability to provide basic care for the person,
18 social, recreational and programmatic activities available for
19 the person, and other appropriate aspects of the person's
20 environment.

21 A report containing the above observations shall be made to
22 the Department, to the licensing agency, and to any other
23 appropriate agency subsequent to each visitation. The report
24 shall contain recommendations to improve the care and treatment
25 of the resident, as necessary, which shall be reviewed by the
26 facility's interdisciplinary team and the resident or the

1 resident's legal guardian.

2 Upon the complaint of any person placed in accordance with
3 this Section or any responsible citizen or upon discovery that
4 such person has been abused, neglected, or improperly cared
5 for, or that the placement does not provide the type of care
6 required by the recipient's current condition, the Department
7 immediately shall investigate, and determine if the
8 well-being, health, care, or safety of any person is affected
9 by any of the above occurrences, and if any one of the above
10 occurrences is verified, the Department shall remove such
11 person at once to a facility of the Department or to another
12 facility outside the Department, provided such person's needs
13 can be met at said facility. The Department may also provide
14 any person placed in accordance with this Section who is
15 without available funds, and who is permitted to engage in
16 employment outside the facility, such sums for the
17 transportation, and other expenses as may be needed by him
18 until he receives his wages for such employment.

19 The Department shall promulgate rules and regulations
20 governing the purchase of care for persons who are wards of or
21 who are receiving services from the Department. Such rules and
22 regulations shall apply to all monies expended by any agency of
23 the State of Illinois for services rendered by any person,
24 corporate entity, agency, governmental agency or political
25 subdivision whether public or private outside of the Department
26 whether payment is made through a contractual, per-diem or

1 other arrangement. No funds shall be paid to any person,
2 corporation, agency, governmental entity or political
3 subdivision without compliance with such rules and
4 regulations.

5 The rules and regulations governing purchase of care shall
6 describe categories and types of service deemed appropriate for
7 purchase by the Department.

8 Any provider of services under this Act may elect to
9 receive payment for those services, and the Department is
10 authorized to arrange for that payment, by means of direct
11 deposit transmittals to the service provider's account
12 maintained at a bank, savings and loan association, or other
13 financial institution. The financial institution shall be
14 approved by the Department, and the deposits shall be in
15 accordance with rules and regulations adopted by the
16 Department.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 Section 15. The Department of Professional Regulation Law
19 of the Civil Administrative Code of Illinois is amended by
20 changing Section 2105-15 as follows:

21 (20 ILCS 2105/2105-15)

22 Sec. 2105-15. General powers and duties.

23 (a) The Department has, subject to the provisions of the
24 Civil Administrative Code of Illinois, the following powers and

1 duties:

2 (1) To authorize examinations in English to ascertain
3 the qualifications and fitness of applicants to exercise
4 the profession, trade, or occupation for which the
5 examination is held.

6 (2) To prescribe rules and regulations for a fair and
7 wholly impartial method of examination of candidates to
8 exercise the respective professions, trades, or
9 occupations.

10 (3) To pass upon the qualifications of applicants for
11 licenses, certificates, and authorities, whether by
12 examination, by reciprocity, or by endorsement.

13 (4) To prescribe rules and regulations defining, for
14 the respective professions, trades, and occupations, what
15 shall constitute a school, college, or university, or
16 department of a university, or other institution,
17 reputable and in good standing, and to determine the
18 reputability and good standing of a school, college, or
19 university, or department of a university, or other
20 institution, reputable and in good standing, by reference
21 to a compliance with those rules and regulations; provided,
22 that no school, college, or university, or department of a
23 university, or other institution that refuses admittance
24 to applicants solely on account of race, color, creed, sex,
25 or national origin shall be considered reputable and in
26 good standing.

1 (5) To conduct hearings on proceedings to revoke,
2 suspend, refuse to renew, place on probationary status, or
3 take other disciplinary action as authorized in any
4 licensing Act administered by the Department with regard to
5 licenses, certificates, or authorities of persons
6 exercising the respective professions, trades, or
7 occupations and to revoke, suspend, refuse to renew, place
8 on probationary status, or take other disciplinary action
9 as authorized in any licensing Act administered by the
10 Department with regard to those licenses, certificates, or
11 authorities. The Department shall issue a monthly
12 disciplinary report. The Department shall deny any license
13 or renewal authorized by the Civil Administrative Code of
14 Illinois to any person who has defaulted on an educational
15 loan or scholarship provided by or guaranteed by the
16 Illinois Student Assistance Commission or any governmental
17 agency of this State; however, the Department may issue a
18 license or renewal if the aforementioned persons have
19 established a satisfactory repayment record as determined
20 by the Illinois Student Assistance Commission or other
21 appropriate governmental agency of this State.
22 Additionally, beginning June 1, 1996, any license issued by
23 the Department may be suspended or revoked if the
24 Department, after the opportunity for a hearing under the
25 appropriate licensing Act, finds that the licensee has
26 failed to make satisfactory repayment to the Illinois

1 Student Assistance Commission for a delinquent or
2 defaulted loan. For the purposes of this Section,
3 "satisfactory repayment record" shall be defined by rule.
4 The Department shall refuse to issue or renew a license to,
5 or shall suspend or revoke a license of, any person who,
6 after receiving notice, fails to comply with a subpoena or
7 warrant relating to a paternity or child support
8 proceeding. However, the Department may issue a license or
9 renewal upon compliance with the subpoena or warrant.

10 The Department, without further process or hearings,
11 shall revoke, suspend, or deny any license or renewal
12 authorized by the Civil Administrative Code of Illinois to
13 a person who is certified by the Department of Healthcare
14 and Family Services (formerly Illinois Department of
15 Public Aid) as being more than 30 days delinquent in
16 complying with a child support order or who is certified by
17 a court as being in violation of the Non-Support Punishment
18 Act for more than 60 days. The Department may, however,
19 issue a license or renewal if the person has established a
20 satisfactory repayment record as determined by the
21 Department of Healthcare and Family Services (formerly
22 Illinois Department of Public Aid) or if the person is
23 determined by the court to be in compliance with the
24 Non-Support Punishment Act. The Department may implement
25 this paragraph as added by Public Act 89-6 through the use
26 of emergency rules in accordance with Section 5-45 of the

1 Illinois Administrative Procedure Act. For purposes of the
2 Illinois Administrative Procedure Act, the adoption of
3 rules to implement this paragraph shall be considered an
4 emergency and necessary for the public interest, safety,
5 and welfare.

6 (6) To transfer jurisdiction of any realty under the
7 control of the Department to any other department of the
8 State Government or to acquire or accept federal lands when
9 the transfer, acquisition, or acceptance is advantageous
10 to the State and is approved in writing by the Governor.

11 (7) To formulate rules and regulations necessary for
12 the enforcement of any Act administered by the Department.

13 (8) To exchange with the Department of Healthcare and
14 Family Services information that may be necessary for the
15 enforcement of child support orders entered pursuant to the
16 Illinois Public Aid Code, the Illinois Marriage and
17 Dissolution of Marriage Act, the Non-Support of Spouse and
18 Children Act, the Non-Support Punishment Act, the Revised
19 Uniform Reciprocal Enforcement of Support Act, the Uniform
20 Interstate Family Support Act, or the Illinois Parentage
21 Act of 1984. Notwithstanding any provisions in this Code to
22 the contrary, the Department of Professional Regulation
23 shall not be liable under any federal or State law to any
24 person for any disclosure of information to the Department
25 of Healthcare and Family Services (formerly Illinois
26 Department of Public Aid) under this paragraph (8) or for

1 any other action taken in good faith to comply with the
2 requirements of this paragraph (8).

3 (8.5) To cooperate with the Department of Public Health
4 in improving the quality of care and services provided to
5 nursing home residents, by (i) sharing information about
6 decisions to open investigations, the nature of an
7 investigation, the outcome of an investigation, and the
8 reasons for an investigation, in the case of referrals or
9 complaints made by the Department of Public Health or
10 others about the conduct of any licensed professional with
11 respect to a nursing home resident; (ii) advising the
12 Department of Public Health about how it could improve its
13 investigatory processes; (iii) conducting joint
14 investigations, when appropriate; (iv) adopting some or
15 all of the findings of a Department of Public Health
16 survey, rather than reinvestigating an occurrence; and (v)
17 receiving training about how nursing homes are supposed to
18 function, and the roles of various professional and
19 non-professional staff.

20 (9) To perform other duties prescribed by law.

21 (a-5) Except in cases involving default on an educational
22 loan or scholarship provided by or guaranteed by the Illinois
23 Student Assistance Commission or any governmental agency of
24 this State or in cases involving delinquency in complying with
25 a child support order or violation of the Non-Support
26 Punishment Act, no person or entity whose license, certificate,

1 or authority has been revoked as authorized in any licensing
2 Act administered by the Department may apply for restoration of
3 that license, certification, or authority until 3 years after
4 the effective date of the revocation.

5 (b) The Department may, when a fee is payable to the
6 Department for a wall certificate of registration provided by
7 the Department of Central Management Services, require that
8 portion of the payment for printing and distribution costs be
9 made directly or through the Department to the Department of
10 Central Management Services for deposit into the Paper and
11 Printing Revolving Fund. The remainder shall be deposited into
12 the General Revenue Fund.

13 (c) For the purpose of securing and preparing evidence, and
14 for the purchase of controlled substances, professional
15 services, and equipment necessary for enforcement activities,
16 recoupment of investigative costs, and other activities
17 directed at suppressing the misuse and abuse of controlled
18 substances, including those activities set forth in Sections
19 504 and 508 of the Illinois Controlled Substances Act, the
20 Director and agents appointed and authorized by the Director
21 may expend sums from the Professional Regulation Evidence Fund
22 that the Director deems necessary from the amounts appropriated
23 for that purpose. Those sums may be advanced to the agent when
24 the Director deems that procedure to be in the public interest.
25 Sums for the purchase of controlled substances, professional
26 services, and equipment necessary for enforcement activities

1 and other activities as set forth in this Section shall be
2 advanced to the agent who is to make the purchase from the
3 Professional Regulation Evidence Fund on vouchers signed by the
4 Director. The Director and those agents are authorized to
5 maintain one or more commercial checking accounts with any
6 State banking corporation or corporations organized under or
7 subject to the Illinois Banking Act for the deposit and
8 withdrawal of moneys to be used for the purposes set forth in
9 this Section; provided, that no check may be written nor any
10 withdrawal made from any such account except upon the written
11 signatures of 2 persons designated by the Director to write
12 those checks and make those withdrawals. Vouchers for those
13 expenditures must be signed by the Director. All such
14 expenditures shall be audited by the Director, and the audit
15 shall be submitted to the Department of Central Management
16 Services for approval.

17 (d) Whenever the Department is authorized or required by
18 law to consider some aspect of criminal history record
19 information for the purpose of carrying out its statutory
20 powers and responsibilities, then, upon request and payment of
21 fees in conformance with the requirements of Section 2605-400
22 of the Department of State Police Law (20 ILCS 2605/2605-400),
23 the Department of State Police is authorized to furnish,
24 pursuant to positive identification, the information contained
25 in State files that is necessary to fulfill the request.

26 (e) The provisions of this Section do not apply to private

1 business and vocational schools as defined by Section 1 of the
2 Private Business and Vocational Schools Act.

3 (f) Beginning July 1, 1995, this Section does not apply to
4 those professions, trades, and occupations licensed under the
5 Real Estate License Act of 2000, nor does it apply to any
6 permits, certificates, or other authorizations to do business
7 provided for in the Land Sales Registration Act of 1989 or the
8 Illinois Real Estate Time-Share Act.

9 (g) Notwithstanding anything that may appear in any
10 individual licensing statute or administrative rule, the
11 Department shall deny any license application or renewal
12 authorized under any licensing Act administered by the
13 Department to any person who has failed to file a return, or to
14 pay the tax, penalty, or interest shown in a filed return, or
15 to pay any final assessment of tax, penalty, or interest, as
16 required by any tax Act administered by the Illinois Department
17 of Revenue, until such time as the requirement of any such tax
18 Act are satisfied; however, the Department may issue a license
19 or renewal if the person has established a satisfactory
20 repayment record as determined by the Illinois Department of
21 Revenue. For the purpose of this Section, "satisfactory
22 repayment record" shall be defined by rule.

23 In addition, a complaint filed with the Department by the
24 Illinois Department of Revenue that includes a certification,
25 signed by its Director or designee, attesting to the amount of
26 the unpaid tax liability or the years for which a return was

1 not filed, or both, is prima facia evidence of the licensee's
2 failure to comply with the tax laws administered by the
3 Illinois Department of Revenue. Upon receipt of that
4 certification, the Department shall, without a hearing,
5 immediately suspend all licenses held by the licensee.
6 Enforcement of the Department's order shall be stayed for 60
7 days. The Department shall provide notice of the suspension to
8 the licensee by mailing a copy of the Department's order by
9 certified and regular mail to the licensee's last known address
10 as registered with the Department. The notice shall advise the
11 licensee that the suspension shall be effective 60 days after
12 the issuance of the Department's order unless the Department
13 receives, from the licensee, a request for a hearing before the
14 Department to dispute the matters contained in the order.

15 Any suspension imposed under this subsection (g) shall be
16 terminated by the Department upon notification from the
17 Illinois Department of Revenue that the licensee is in
18 compliance with all tax laws administered by the Illinois
19 Department of Revenue.

20 The Department shall promulgate rules for the
21 administration of this subsection (g).

22 (h) The Department may grant the title "Retired", to be
23 used immediately adjacent to the title of a profession
24 regulated by the Department, to eligible retirees. The use of
25 the title "Retired" shall not constitute representation of
26 current licensure, registration, or certification. Any person

1 without an active license, registration, or certificate in a
2 profession that requires licensure, registration, or
3 certification shall not be permitted to practice that
4 profession.

5 (i) Within 180 days after December 23, 2009 (the effective
6 date of Public Act 96-852)~~this amendatory Act of the 96th~~
7 ~~General Assembly~~, the Department shall promulgate rules which
8 permit a person with a criminal record, who seeks a license or
9 certificate in an occupation for which a criminal record is not
10 expressly a per se bar, to apply to the Department for a
11 non-binding, advisory opinion to be provided by the Board or
12 body with the authority to issue the license or certificate as
13 to whether his or her criminal record would bar the individual
14 from the licensure or certification sought, should the
15 individual meet all other licensure requirements including,
16 but not limited to, the successful completion of the relevant
17 examinations.

18 (Source: P.A. 95-331, eff. 8-21-07; 96-459, eff. 8-14-09;
19 96-852, eff. 12-23-09; revised 1-4-10.)

20 Section 20. The Department of Public Health Powers and
21 Duties Law of the Civil Administrative Code of Illinois is
22 amended by changing Section 2310-130 as follows:

23 (20 ILCS 2310/2310-130) (was 20 ILCS 2310/55.82)

24 Sec. 2310-130. Medicare or Medicaid certification fee;

1 Health Care Facility and Program Survey Fund. To establish and
2 charge a fee to any facility or program applying to be
3 certified to participate in the Medicare program under Title
4 XVIII of the federal Social Security Act or in the Medicaid
5 program under Title XIX of the federal Social Security Act to
6 cover the costs associated with the application, inspection,
7 and survey of the facility or program and processing of the
8 application. The Department shall establish the fee by rule,
9 and the fee shall be based only on those application,
10 inspection, and survey and processing costs not reimbursed to
11 the State by the federal government. The fee shall be paid by
12 the facility or program before the application is processed.

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

20 Beginning July 1, 2010, the Department shall employ a
21 minimum of one surveyor for every 450 licensed long term care
22 beds. Beginning July 1, 2011, the Department shall employ a
23 minimum of one surveyor for every 300 licensed long term care
24 beds.

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

1 Section 25. The Guardianship and Advocacy Act is amended by
2 changing Section 32 as follows:

3 (20 ILCS 3955/32) (from Ch. 91 1/2, par. 732)

4 Sec. 32.

5 (a) The State Guardian shall have the same powers and
6 duties as a private guardian as provided in Article XIa of the
7 Probate Act of 1975, approved August 7, 1975. The State
8 Guardian shall not provide direct residential services to its
9 wards. The State Guardian shall visit and consult with its
10 wards at least four times a year for as long as the
11 guardianship continues.

12 (b) The State Guardian shall have no authority to place its
13 wards in a mental health facility, as defined in Section 1-114
14 of the Mental Health and Developmental Disabilities Code,
15 except pursuant to the provisions set forth in Chapter III of
16 that Code. The State Guardian shall not place any ward in a
17 mental health facility licensed under the Nursing Home Care Act
18 unless the guardian has determined that such facility is in
19 compliance with the Mental Health and Developmental
20 Disabilities Code. Such determination shall be in writing and
21 included in the periodic report provided to the court pursuant
22 to subsection (b) of Section 11a-17 of the Probate Act of 1975.

23 (Source: P.A. 80-1416.)

24 Section 30. The Illinois Health Facilities Planning Act is

1 amended by changing Sections 3 and 14.1 as follows:

2 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

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

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

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

6 "Health care facilities" means and includes the following
7 facilities and organizations:

8 1. An ambulatory surgical treatment center required to
9 be licensed pursuant to the Ambulatory Surgical Treatment
10 Center Act;

11 2. An institution, place, building, or agency required
12 to be licensed pursuant to the Hospital Licensing Act;

13 3. Skilled and intermediate long term care facilities
14 licensed under the Nursing Home Care Act;

15 4. Hospitals, nursing homes, ambulatory surgical
16 treatment centers, or kidney disease treatment centers
17 maintained by the State or any department or agency
18 thereof;

19 5. Kidney disease treatment centers, including a
20 free-standing hemodialysis unit required to be licensed
21 under the End Stage Renal Disease Facility Act;

22 6. An institution, place, building, or room used for
23 the performance of outpatient surgical procedures that is
24 leased, owned, or operated by or on behalf of an
25 out-of-state facility;

1 7. An institution, place, building, or room used for
2 provision of a health care category of service as defined
3 by the Board, including, but not limited to, cardiac
4 catheterization and open heart surgery; and

5 8. An institution, place, building, or room used for
6 provision of major medical equipment used in the direct
7 clinical diagnosis or treatment of patients, and whose
8 project cost is in excess of the capital expenditure
9 minimum.

10 This Act shall not apply to the construction of any new
11 facility or the renovation of any existing facility located on
12 any campus facility as defined in Section 5-5.8b of the
13 Illinois Public Aid Code, provided that the campus facility
14 encompasses 30 or more contiguous acres and that the new or
15 renovated facility is intended for use by a licensed
16 residential facility.

17 No federally owned facility shall be subject to the
18 provisions of this Act, nor facilities used solely for healing
19 by prayer or spiritual means.

20 No facility licensed under the Supportive Residences
21 Licensing Act or the Assisted Living and Shared Housing Act
22 shall be subject to the provisions of this Act.

23 No facility established and operating under the
24 Alternative Health Care Delivery Act as a children's respite
25 care center alternative health care model demonstration
26 program or as an Alzheimer's Disease Management Center

1 alternative health care model demonstration program shall be
2 subject to the provisions of this Act.

3 A facility designated as a supportive living facility that
4 is in good standing with the program established under Section
5 5-5.01a of the Illinois Public Aid Code shall not be subject to
6 the provisions of this Act.

7 This Act does not apply to facilities granted waivers under
8 Section 3-102.2 of the Nursing Home Care Act. However, if a
9 demonstration project under that Act applies for a certificate
10 of need to convert to a nursing facility, it shall meet the
11 licensure and certificate of need requirements in effect as of
12 the date of application.

13 This Act does not apply to a dialysis facility that
14 provides only dialysis training, support, and related services
15 to individuals with end stage renal disease who have elected to
16 receive home dialysis. This Act does not apply to a dialysis
17 unit located in a licensed nursing home that offers or provides
18 dialysis-related services to residents with end stage renal
19 disease who have elected to receive home dialysis within the
20 nursing home. The Board, however, may require these dialysis
21 facilities and licensed nursing homes to report statistical
22 information on a quarterly basis to the Board to be used by the
23 Board to conduct analyses on the need for proposed kidney
24 disease treatment centers.

25 This Act shall not apply to the closure of an entity or a
26 portion of an entity licensed under the Nursing Home Care Act,

1 with the exceptions of facilities operated by a county or
2 Illinois Veterans Homes, that elects to convert, in whole or in
3 part, to an assisted living or shared housing establishment
4 licensed under the Assisted Living and Shared Housing Act.

5 This Act does not apply to any change of ownership of a
6 healthcare facility that is licensed under the Nursing Home
7 Care Act, with the exceptions of facilities operated by a
8 county or Illinois Veterans Homes, and with the exception of
9 facilities that have been placed in receivership. Changes of
10 ownership of facilities licensed under the Nursing Home Care
11 Act must meet the requirements set forth in Sections 3-101
12 through 3-119 of the Nursing Home Care Act.

13 With the exception of those health care facilities
14 specifically included in this Section, nothing in this Act
15 shall be intended to include facilities operated as a part of
16 the practice of a physician or other licensed health care
17 professional, whether practicing in his individual capacity or
18 within the legal structure of any partnership, medical or
19 professional corporation, or unincorporated medical or
20 professional group. Further, this Act shall not apply to
21 physicians or other licensed health care professional's
22 practices where such practices are carried out in a portion of
23 a health care facility under contract with such health care
24 facility by a physician or by other licensed health care
25 professionals, whether practicing in his individual capacity
26 or within the legal structure of any partnership, medical or

1 professional corporation, or unincorporated medical or
2 professional groups. This Act shall apply to construction or
3 modification and to establishment by such health care facility
4 of such contracted portion which is subject to facility
5 licensing requirements, irrespective of the party responsible
6 for such action or attendant financial obligation.

7 "Person" means any one or more natural persons, legal
8 entities, governmental bodies other than federal, or any
9 combination thereof.

10 "Consumer" means any person other than a person (a) whose
11 major occupation currently involves or whose official capacity
12 within the last 12 months has involved the providing,
13 administering or financing of any type of health care facility,
14 (b) who is engaged in health research or the teaching of
15 health, (c) who has a material financial interest in any
16 activity which involves the providing, administering or
17 financing of any type of health care facility, or (d) who is or
18 ever has been a member of the immediate family of the person
19 defined by (a), (b), or (c).

20 "State Board" or "Board" means the Health Facilities and
21 Services Review Board.

22 "Construction or modification" means the establishment,
23 erection, building, alteration, reconstruction, modernization,
24 improvement, extension, discontinuation, change of ownership,
25 of or by a health care facility, or the purchase or acquisition
26 by or through a health care facility of equipment or service

1 for diagnostic or therapeutic purposes or for facility
2 administration or operation, or any capital expenditure made by
3 or on behalf of a health care facility which exceeds the
4 capital expenditure minimum; however, any capital expenditure
5 made by or on behalf of a health care facility for (i) the
6 construction or modification of a facility licensed under the
7 Assisted Living and Shared Housing Act or (ii) a conversion
8 project undertaken in accordance with Section 30 of the Older
9 Adult Services Act shall be excluded from any obligations under
10 this Act.

11 "Establish" means the construction of a health care
12 facility or the replacement of an existing facility on another
13 site or the initiation of a category of service as defined by
14 the Board.

15 "Major medical equipment" means medical equipment which is
16 used for the provision of medical and other health services and
17 which costs in excess of the capital expenditure minimum,
18 except that such term does not include medical equipment
19 acquired by or on behalf of a clinical laboratory to provide
20 clinical laboratory services if the clinical laboratory is
21 independent of a physician's office and a hospital and it has
22 been determined under Title XVIII of the Social Security Act to
23 meet the requirements of paragraphs (10) and (11) of Section
24 1861(s) of such Act. In determining whether medical equipment
25 has a value in excess of the capital expenditure minimum, the
26 value of studies, surveys, designs, plans, working drawings,

1 specifications, and other activities essential to the
2 acquisition of such equipment shall be included.

3 "Capital Expenditure" means an expenditure: (A) made by or
4 on behalf of a health care facility (as such a facility is
5 defined in this Act); and (B) which under generally accepted
6 accounting principles is not properly chargeable as an expense
7 of operation and maintenance, or is made to obtain by lease or
8 comparable arrangement any facility or part thereof or any
9 equipment for a facility or part; and which exceeds the capital
10 expenditure minimum.

11 For the purpose of this paragraph, the cost of any studies,
12 surveys, designs, plans, working drawings, specifications, and
13 other activities essential to the acquisition, improvement,
14 expansion, or replacement of any plant or equipment with
15 respect to which an expenditure is made shall be included in
16 determining if such expenditure exceeds the capital
17 expenditures minimum. Unless otherwise interdependent, or
18 submitted as one project by the applicant, components of
19 construction or modification undertaken by means of a single
20 construction contract or financed through the issuance of a
21 single debt instrument shall not be grouped together as one
22 project. Donations of equipment or facilities to a health care
23 facility which if acquired directly by such facility would be
24 subject to review under this Act shall be considered capital
25 expenditures, and a transfer of equipment or facilities for
26 less than fair market value shall be considered a capital

1 expenditure for purposes of this Act if a transfer of the
2 equipment or facilities at fair market value would be subject
3 to review.

4 "Capital expenditure minimum" means \$11,500,000 for
5 projects by hospital applicants, \$6,500,000 for applicants for
6 projects related to skilled and intermediate care long-term
7 care facilities licensed under the Nursing Home Care Act, and
8 \$3,000,000 for projects by all other applicants, which shall be
9 annually adjusted to reflect the increase in construction costs
10 due to inflation, for major medical equipment and for all other
11 capital expenditures.

12 "Non-clinical service area" means an area (i) for the
13 benefit of the patients, visitors, staff, or employees of a
14 health care facility and (ii) not directly related to the
15 diagnosis, treatment, or rehabilitation of persons receiving
16 services from the health care facility. "Non-clinical service
17 areas" include, but are not limited to, chapels; gift shops;
18 news stands; computer systems; tunnels, walkways, and
19 elevators; telephone systems; projects to comply with life
20 safety codes; educational facilities; student housing;
21 patient, employee, staff, and visitor dining areas;
22 administration and volunteer offices; modernization of
23 structural components (such as roof replacement and masonry
24 work); boiler repair or replacement; vehicle maintenance and
25 storage facilities; parking facilities; mechanical systems for
26 heating, ventilation, and air conditioning; loading docks; and

1 repair or replacement of carpeting, tile, wall coverings,
2 window coverings or treatments, or furniture. Solely for the
3 purpose of this definition, "non-clinical service area" does
4 not include health and fitness centers.

5 "Areawide" means a major area of the State delineated on a
6 geographic, demographic, and functional basis for health
7 planning and for health service and having within it one or
8 more local areas for health planning and health service. The
9 term "region", as contrasted with the term "subregion", and the
10 word "area" may be used synonymously with the term "areawide".

11 "Local" means a subarea of a delineated major area that on
12 a geographic, demographic, and functional basis may be
13 considered to be part of such major area. The term "subregion"
14 may be used synonymously with the term "local".

15 "Physician" means a person licensed to practice in
16 accordance with the Medical Practice Act of 1987, as amended.

17 "Licensed health care professional" means a person
18 licensed to practice a health profession under pertinent
19 licensing statutes of the State of Illinois.

20 "Director" means the Director of the Illinois Department of
21 Public Health.

22 "Agency" means the Illinois Department of Public Health.

23 "Alternative health care model" means a facility or program
24 authorized under the Alternative Health Care Delivery Act.

25 "Out-of-state facility" means a person that is both (i)
26 licensed as a hospital or as an ambulatory surgery center under

1 the laws of another state or that qualifies as a hospital or an
2 ambulatory surgery center under regulations adopted pursuant
3 to the Social Security Act and (ii) not licensed under the
4 Ambulatory Surgical Treatment Center Act, the Hospital
5 Licensing Act, or the Nursing Home Care Act. Affiliates of
6 out-of-state facilities shall be considered out-of-state
7 facilities. Affiliates of Illinois licensed health care
8 facilities 100% owned by an Illinois licensed health care
9 facility, its parent, or Illinois physicians licensed to
10 practice medicine in all its branches shall not be considered
11 out-of-state facilities. Nothing in this definition shall be
12 construed to include an office or any part of an office of a
13 physician licensed to practice medicine in all its branches in
14 Illinois that is not required to be licensed under the
15 Ambulatory Surgical Treatment Center Act.

16 "Change of ownership of a health care facility" means a
17 change in the person who has ownership or control of a health
18 care facility's physical plant and capital assets. A change in
19 ownership is indicated by the following transactions: sale,
20 transfer, acquisition, lease, change of sponsorship, or other
21 means of transferring control.

22 "Related person" means any person that: (i) is at least 50%
23 owned, directly or indirectly, by either the health care
24 facility or a person owning, directly or indirectly, at least
25 50% of the health care facility; or (ii) owns, directly or
26 indirectly, at least 50% of the health care facility.

1 "Charity care" means care provided by a health care
2 facility for which the provider does not expect to receive
3 payment from the patient or a third-party payer.

4 "Freestanding emergency center" means a facility subject
5 to licensure under Section 32.5 of the Emergency Medical
6 Services (EMS) Systems Act.

7 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;
8 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.
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10 (Text of Section after amendment by P.A. 96-339)

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17 Center Act;

18 2. An institution, place, building, or agency required
19 to be licensed pursuant to the Hospital Licensing Act;

20 3. Skilled and intermediate long term care facilities
21 licensed under the Nursing Home Care Act;

22 3.5. Skilled and intermediate care facilities licensed
23 under the MR/DD Community Care Act;

24 4. Hospitals, nursing homes, ambulatory surgical
25 treatment centers, or kidney disease treatment centers

1 maintained by the State or any department or agency
2 thereof;

3 5. Kidney disease treatment centers, including a
4 free-standing hemodialysis unit required to be licensed
5 under the End Stage Renal Disease Facility Act;

6 6. An institution, place, building, or room used for
7 the performance of outpatient surgical procedures that is
8 leased, owned, or operated by or on behalf of an
9 out-of-state facility;

10 7. An institution, place, building, or room used for
11 provision of a health care category of service as defined
12 by the Board, including, but not limited to, cardiac
13 catheterization and open heart surgery; and

14 8. An institution, place, building, or room used for
15 provision of major medical equipment used in the direct
16 clinical diagnosis or treatment of patients, and whose
17 project cost is in excess of the capital expenditure
18 minimum.

19 This Act shall not apply to the construction of any new
20 facility or the renovation of any existing facility located on
21 any campus facility as defined in Section 5-5.8b of the
22 Illinois Public Aid Code, provided that the campus facility
23 encompasses 30 or more contiguous acres and that the new or
24 renovated facility is intended for use by a licensed
25 residential facility.

26 No federally owned facility shall be subject to the

1 provisions of this Act, nor facilities used solely for healing
2 by prayer or spiritual means.

3 No facility licensed under the Supportive Residences
4 Licensing Act or the Assisted Living and Shared Housing Act
5 shall be subject to the provisions of this Act.

6 No facility established and operating under the
7 Alternative Health Care Delivery Act as a children's respite
8 care center alternative health care model demonstration
9 program or as an Alzheimer's Disease Management Center
10 alternative health care model demonstration program shall be
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13 is in good standing with the program established under Section
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15 the provisions of this Act.

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17 Section 3-102.2 of the Nursing Home Care Act. However, if a
18 demonstration project under that Act applies for a certificate
19 of need to convert to a nursing facility, it shall meet the
20 licensure and certificate of need requirements in effect as of
21 the date of application.

22 This Act does not apply to a dialysis facility that
23 provides only dialysis training, support, and related services
24 to individuals with end stage renal disease who have elected to
25 receive home dialysis. This Act does not apply to a dialysis
26 unit located in a licensed nursing home that offers or provides

1 dialysis-related services to residents with end stage renal
2 disease who have elected to receive home dialysis within the
3 nursing home. The Board, however, may require these dialysis
4 facilities and licensed nursing homes to report statistical
5 information on a quarterly basis to the Board to be used by the
6 Board to conduct analyses on the need for proposed kidney
7 disease treatment centers.

8 This Act shall not apply to the closure of an entity or a
9 portion of an entity licensed under the Nursing Home Care Act
10 or the MR/DD Community Care Act, with the exceptions of
11 facilities operated by a county or Illinois Veterans Homes,
12 that elects to convert, in whole or in part, to an assisted
13 living or shared housing establishment licensed under the
14 Assisted Living and Shared Housing Act.

15 This Act does not apply to any change of ownership of a
16 healthcare facility that is licensed under the Nursing Home
17 Care Act or the MR/DD Community Care Act, with the exceptions
18 of facilities operated by a county or Illinois Veterans Homes,
19 and with the exception of facilities that have been placed in
20 receivership. Changes of ownership of facilities licensed
21 under the Nursing Home Care Act must meet the requirements set
22 forth in Sections 3-101 through 3-119 of the Nursing Home Care
23 Act.

24 With the exception of those health care facilities
25 specifically included in this Section, nothing in this Act
26 shall be intended to include facilities operated as a part of

1 the practice of a physician or other licensed health care
2 professional, whether practicing in his individual capacity or
3 within the legal structure of any partnership, medical or
4 professional corporation, or unincorporated medical or
5 professional group. Further, this Act shall not apply to
6 physicians or other licensed health care professional's
7 practices where such practices are carried out in a portion of
8 a health care facility under contract with such health care
9 facility by a physician or by other licensed health care
10 professionals, whether practicing in his individual capacity
11 or within the legal structure of any partnership, medical or
12 professional corporation, or unincorporated medical or
13 professional groups. This Act shall apply to construction or
14 modification and to establishment by such health care facility
15 of such contracted portion which is subject to facility
16 licensing requirements, irrespective of the party responsible
17 for such action or attendant financial obligation.

18 "Person" means any one or more natural persons, legal
19 entities, governmental bodies other than federal, or any
20 combination thereof.

21 "Consumer" means any person other than a person (a) whose
22 major occupation currently involves or whose official capacity
23 within the last 12 months has involved the providing,
24 administering or financing of any type of health care facility,
25 (b) who is engaged in health research or the teaching of
26 health, (c) who has a material financial interest in any

1 activity which involves the providing, administering or
2 financing of any type of health care facility, or (d) who is or
3 ever has been a member of the immediate family of the person
4 defined by (a), (b), or (c).

5 "State Board" or "Board" means the Health Facilities and
6 Services Review Board.

7 "Construction or modification" means the establishment,
8 erection, building, alteration, reconstruction, modernization,
9 improvement, extension, discontinuation, change of ownership,
10 of or by a health care facility, or the purchase or acquisition
11 by or through a health care facility of equipment or service
12 for diagnostic or therapeutic purposes or for facility
13 administration or operation, or any capital expenditure made by
14 or on behalf of a health care facility which exceeds the
15 capital expenditure minimum; however, any capital expenditure
16 made by or on behalf of a health care facility for (i) the
17 construction or modification of a facility licensed under the
18 Assisted Living and Shared Housing Act or (ii) a conversion
19 project undertaken in accordance with Section 30 of the Older
20 Adult Services Act shall be excluded from any obligations under
21 this Act.

22 "Establish" means the construction of a health care
23 facility or the replacement of an existing facility on another
24 site or the initiation of a category of service as defined by
25 the Board.

26 "Major medical equipment" means medical equipment which is

1 used for the provision of medical and other health services and
2 which costs in excess of the capital expenditure minimum,
3 except that such term does not include medical equipment
4 acquired by or on behalf of a clinical laboratory to provide
5 clinical laboratory services if the clinical laboratory is
6 independent of a physician's office and a hospital and it has
7 been determined under Title XVIII of the Social Security Act to
8 meet the requirements of paragraphs (10) and (11) of Section
9 1861(s) of such Act. In determining whether medical equipment
10 has a value in excess of the capital expenditure minimum, the
11 value of studies, surveys, designs, plans, working drawings,
12 specifications, and other activities essential to the
13 acquisition of such equipment shall be included.

14 "Capital Expenditure" means an expenditure: (A) made by or
15 on behalf of a health care facility (as such a facility is
16 defined in this Act); and (B) which under generally accepted
17 accounting principles is not properly chargeable as an expense
18 of operation and maintenance, or is made to obtain by lease or
19 comparable arrangement any facility or part thereof or any
20 equipment for a facility or part; and which exceeds the capital
21 expenditure minimum.

22 For the purpose of this paragraph, the cost of any studies,
23 surveys, designs, plans, working drawings, specifications, and
24 other activities essential to the acquisition, improvement,
25 expansion, or replacement of any plant or equipment with
26 respect to which an expenditure is made shall be included in

1 determining if such expenditure exceeds the capital
2 expenditures minimum. Unless otherwise interdependent, or
3 submitted as one project by the applicant, components of
4 construction or modification undertaken by means of a single
5 construction contract or financed through the issuance of a
6 single debt instrument shall not be grouped together as one
7 project. Donations of equipment or facilities to a health care
8 facility which if acquired directly by such facility would be
9 subject to review under this Act shall be considered capital
10 expenditures, and a transfer of equipment or facilities for
11 less than fair market value shall be considered a capital
12 expenditure for purposes of this Act if a transfer of the
13 equipment or facilities at fair market value would be subject
14 to review.

15 "Capital expenditure minimum" means \$11,500,000 for
16 projects by hospital applicants, \$6,500,000 for applicants for
17 projects related to skilled and intermediate care long-term
18 care facilities licensed under the Nursing Home Care Act, and
19 \$3,000,000 for projects by all other applicants, which shall be
20 annually adjusted to reflect the increase in construction costs
21 due to inflation, for major medical equipment and for all other
22 capital expenditures.

23 "Non-clinical service area" means an area (i) for the
24 benefit of the patients, visitors, staff, or employees of a
25 health care facility and (ii) not directly related to the
26 diagnosis, treatment, or rehabilitation of persons receiving

1 services from the health care facility. "Non-clinical service
2 areas" include, but are not limited to, chapels; gift shops;
3 news stands; computer systems; tunnels, walkways, and
4 elevators; telephone systems; projects to comply with life
5 safety codes; educational facilities; student housing;
6 patient, employee, staff, and visitor dining areas;
7 administration and volunteer offices; modernization of
8 structural components (such as roof replacement and masonry
9 work); boiler repair or replacement; vehicle maintenance and
10 storage facilities; parking facilities; mechanical systems for
11 heating, ventilation, and air conditioning; loading docks; and
12 repair or replacement of carpeting, tile, wall coverings,
13 window coverings or treatments, or furniture. Solely for the
14 purpose of this definition, "non-clinical service area" does
15 not include health and fitness centers.

16 "Areawide" means a major area of the State delineated on a
17 geographic, demographic, and functional basis for health
18 planning and for health service and having within it one or
19 more local areas for health planning and health service. The
20 term "region", as contrasted with the term "subregion", and the
21 word "area" may be used synonymously with the term "areawide".

22 "Local" means a subarea of a delineated major area that on
23 a geographic, demographic, and functional basis may be
24 considered to be part of such major area. The term "subregion"
25 may be used synonymously with the term "local".

26 "Physician" means a person licensed to practice in

1 accordance with the Medical Practice Act of 1987, as amended.

2 "Licensed health care professional" means a person
3 licensed to practice a health profession under pertinent
4 licensing statutes of the State of Illinois.

5 "Director" means the Director of the Illinois Department of
6 Public Health.

7 "Agency" means the Illinois Department of Public Health.

8 "Alternative health care model" means a facility or program
9 authorized under the Alternative Health Care Delivery Act.

10 "Out-of-state facility" means a person that is both (i)
11 licensed as a hospital or as an ambulatory surgery center under
12 the laws of another state or that qualifies as a hospital or an
13 ambulatory surgery center under regulations adopted pursuant
14 to the Social Security Act and (ii) not licensed under the
15 Ambulatory Surgical Treatment Center Act, the Hospital
16 Licensing Act, or the Nursing Home Care Act. Affiliates of
17 out-of-state facilities shall be considered out-of-state
18 facilities. Affiliates of Illinois licensed health care
19 facilities 100% owned by an Illinois licensed health care
20 facility, its parent, or Illinois physicians licensed to
21 practice medicine in all its branches shall not be considered
22 out-of-state facilities. Nothing in this definition shall be
23 construed to include an office or any part of an office of a
24 physician licensed to practice medicine in all its branches in
25 Illinois that is not required to be licensed under the
26 Ambulatory Surgical Treatment Center Act.

1 "Change of ownership of a health care facility" means a
2 change in the person who has ownership or control of a health
3 care facility's physical plant and capital assets. A change in
4 ownership is indicated by the following transactions: sale,
5 transfer, acquisition, lease, change of sponsorship, or other
6 means of transferring control.

7 "Related person" means any person that: (i) is at least 50%
8 owned, directly or indirectly, by either the health care
9 facility or a person owning, directly or indirectly, at least
10 50% of the health care facility; or (ii) owns, directly or
11 indirectly, at least 50% of the health care facility.

12 "Charity care" means care provided by a health care
13 facility for which the provider does not expect to receive
14 payment from the patient or a third-party payer.

15 "Freestanding emergency center" means a facility subject
16 to licensure under Section 32.5 of the Emergency Medical
17 Services (EMS) Systems Act.

18 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;
19 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.
20 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; revised
21 9-25-09.)

22 (20 ILCS 3960/14.1)

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

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

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

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

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

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

11 (3) The violation of any provision of this Act or any
12 rule adopted under this Act.

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

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

19 (a-5) For facilities licensed under the Nursing Home Care
20 Act, no permit shall be denied on the basis of prior operator
21 history, other than for actions specified under item (2), (4),
22 ~~or~~ (5), (5.1), or (7) of Section 3-117 of the Nursing Home Care
23 Act.

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

25 (1) A permit holder who fails to comply with the
26 requirements of maintaining a valid permit shall be fined

1 an amount not to exceed 1% of the approved permit amount
2 plus an additional 1% of the approved permit amount for
3 each 30-day period, or fraction thereof, that the violation
4 continues.

5 (2) A permit holder who alters the scope of an approved
6 project or whose project costs exceed the allowable permit
7 amount without first obtaining approval from the State
8 Board shall be fined an amount not to exceed the sum of (i)
9 the lesser of \$25,000 or 2% of the approved permit amount
10 and (ii) in those cases where the approved permit amount is
11 exceeded by more than \$1,000,000, an additional \$20,000 for
12 each \$1,000,000, or fraction thereof, in excess of the
13 approved permit amount.

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

21 (4) A person who constructs, modifies, or establishes a
22 health care facility without first obtaining a permit shall
23 be fined an amount not to exceed \$25,000 plus an additional
24 \$25,000 for each 30-day period, or fraction thereof, that
25 the violation continues.

26 (5) A person who discontinues a health care facility or

1 a category of service without first obtaining a permit
2 shall be fined an amount not to exceed \$10,000 plus an
3 additional \$10,000 for each 30-day period, or fraction
4 thereof, that the violation continues. For purposes of this
5 subparagraph (5), facilities licensed under the Nursing
6 Home Care Act, with the exceptions of facilities operated
7 by a county or Illinois Veterans Homes, are exempt from
8 this permit requirement. However, facilities licensed
9 under the Nursing Home Care Act must comply with Section
10 3-423 of that Act and must provide the Board with 30-days'
11 written notice of its intent to close.

12 (6) A person subject to this Act who fails to provide
13 information requested by the State Board or Agency within
14 30 days of a formal written request shall be fined an
15 amount not to exceed \$1,000 plus an additional \$1,000 for
16 each 30-day period, or fraction thereof, that the
17 information is not received by the State Board or Agency.

18 (c) Before imposing any fine authorized under this Section,
19 the State Board shall afford the person or permit holder, as
20 the case may be, an appearance before the State Board and an
21 opportunity for a hearing before a hearing officer appointed by
22 the State Board. The hearing shall be conducted in accordance
23 with Section 10.

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

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

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

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

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

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

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

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

15 (3) The violation of any provision of this Act or any
16 rule adopted under this Act.

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

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

23 (a-5) For facilities licensed under the Nursing Home Care
24 Act or the MR/DD Community Care Act, no permit shall be denied
25 on the basis of prior operator history, other than for actions

1 specified under item (2), (4), ~~or~~ (5), (5.1), or (7) of Section
2 3-117 of the Nursing Home Care Act or under item (2), (4), or
3 (5) of Section 3-117 of the MR/DD Community Care Act.

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

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

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

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

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

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

20 (6) A person subject to this Act who fails to provide
21 information requested by the State Board or Agency within
22 30 days of a formal written request shall be fined an
23 amount not to exceed \$1,000 plus an additional \$1,000 for
24 each 30-day period, or fraction thereof, that the
25 information is not received by the State Board or Agency.

26 (c) Before imposing any fine authorized under this Section,

1 the State Board shall afford the person or permit holder, as
2 the case may be, an appearance before the State Board and an
3 opportunity for a hearing before a hearing officer appointed by
4 the State Board. The hearing shall be conducted in accordance
5 with Section 10.

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

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

10 Section 35. The State Finance Act is amended by changing
11 Section 5.589 as follows:

12 (30 ILCS 105/5.589)

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

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

16 Section 40. The Innovations in Long-term Care Quality
17 Grants Act is amended by changing the title of the Act and
18 Sections 1, 5, 10, 15, and 20 as follows:

19 (30 ILCS 772/Act title)

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

1 (30 ILCS 772/1)

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

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

5 (30 ILCS 772/5)

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

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

17 (30 ILCS 772/10)

18 Sec. 10. Eligibility for grant. Initial grants may be made
19 only to assist residents of facilities licensed under the
20 Nursing Home Care Act that:

21 (1) are in areas the Director has determined are
22 without access to high-quality nursing home care;

23 (2) are in receivership; and

24 (3) have a receiver who has demonstrated experience in

1 initiating or continuing best practices and innovation in
2 nursing home care and services, and has a commitment of
3 long-term cooperation and assistance (to be provided
4 without compensation) from facilities licensed under the
5 Nursing Home Care Act that have a history of providing
6 high-quality nursing home care and services that reflect
7 best practices and innovation.

8 The grant must be used to bring, or assist in bringing,
9 high-quality nursing home care to the residents of the facility
10 within a realistic time-frame. Grants may be for more than one
11 year. A grant application submitted by a receiver and initially
12 given to a receiver may subsequently be given to a new owner of
13 the facility, if the owner is a not-for-profit entity that
14 agrees to comply with the requirements of the original grant,
15 and with the plan submitted by the receiver for continuing and
16 increasing adherence to best practices in providing
17 high-quality nursing home care. Grants may only be made to
18 facilities licensed under the Nursing Home Care Act. Grants may
19 only be made for projects that show innovations and measurable
20 improvement in resident care, quality of life, use of
21 technology, or customer satisfaction.

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

23 (30 ILCS 772/15)

24 Sec. 15. Equity Innovations in Long-term Care Quality
25 ~~Demonstration Grants~~ Fund. There is created in the State

1 treasury a special fund to be known as the Equity Innovations
2 in Long-term Care Quality ~~Demonstration Grants~~ Fund. Grants
3 shall be funded using federal civil monetary penalties
4 collected and deposited into the Long Term Care
5 Monitor/Receiver Fund established under the Nursing Home Care
6 Act. Subject to appropriation, moneys in the Fund shall be used
7 to improve the quality of nursing home care in areas without
8 access to high-quality long-term care ~~for demonstration grants~~
9 ~~to nursing homes~~. Interest earned on moneys in the Fund shall
10 be deposited into the Fund.

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

12 (30 ILCS 772/20)

13 Sec. 20. Award of grants.

14 (a) Applications for grants must be made in a manner ~~on~~
15 ~~forms~~ prescribed by the Director of Public Health by rule.
16 Expenditures made with any grant, and the results therefrom,
17 shall be included in the reports filed by the receiver with the
18 court, and shall be reported to the Department in a manner
19 prescribed by rule and by the contract entered into by the
20 receiver with the Department. A receiver who applies for a
21 grant shall submit to the Department, and to the court, a
22 specific plan for continuing and increasing adherence to best
23 practices in providing high-quality nursing home care once the
24 grant has ended.

25 (b) The applications must be reviewed, ~~ranked,~~ and

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

18 ~~(c) The commission shall rank applications according to the~~
19 ~~following criteria:~~

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

21 ~~(2) increased efficiency through the use of~~
22 ~~technology;~~

23 ~~(3) improved quality of care through the use of~~
24 ~~technology;~~

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

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

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

2 ~~and~~

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

4 ~~(d) The Director shall award grants based on the~~
5 ~~recommendations of the commission and after a thorough review~~
6 ~~of the compliance history of the long term care facility.~~

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

8 Section 45. The State Mandates Act is amended by adding
9 Section 8.34 as follows:

10 (30 ILCS 805/8.34 new)

11 Sec. 8.34. Exempt mandate. Notwithstanding Sections 6 and 8
12 of this Act, no reimbursement by the State is required for the
13 implementation of any mandate created by this amendatory Act of
14 the 96th General Assembly.

15 Section 50. The Counties Code is amended by changing
16 Section 3-3013 as follows:

17 (55 ILCS 5/3-3013) (from Ch. 34, par. 3-3013)

18 Sec. 3-3013. Preliminary investigations; blood and urine
19 analysis; summoning jury. Every coroner, whenever, as soon as
20 he knows or is informed that the dead body of any person is
21 found, or lying within his county, whose death is suspected of
22 being:

1 (a) A sudden or violent death, whether apparently
2 suicidal, homicidal or accidental, including but not
3 limited to deaths apparently caused or contributed to by
4 thermal, traumatic, chemical, electrical or radiational
5 injury, or a complication of any of them, or by drowning or
6 suffocation, or as a result of domestic violence as defined
7 in the Illinois Domestic Violence Act of 1986;

8 (b) A maternal or fetal death due to abortion, or any
9 death due to a sex crime or a crime against nature;

10 (c) A death where the circumstances are suspicious,
11 obscure, mysterious or otherwise unexplained or where, in
12 the written opinion of the attending physician, the cause
13 of death is not determined;

14 (d) A death where addiction to alcohol or to any drug
15 may have been a contributory cause; or

16 (e) A death where the decedent was not attended by a
17 licensed physician;

18 shall go to the place where the dead body is, and take charge
19 of the same and shall make a preliminary investigation into the
20 circumstances of the death. In the case of death without
21 attendance by a licensed physician the body may be moved with
22 the coroner's consent from the place of death to a mortuary in
23 the same county. Coroners in their discretion shall notify such
24 physician as is designated in accordance with Section 3-3014 to
25 attempt to ascertain the cause of death, either by autopsy or
26 otherwise.

1 In cases of accidental death involving a motor vehicle in
2 which the decedent was (1) the operator or a suspected operator
3 of a motor vehicle, or (2) a pedestrian 16 years of age or
4 older, the coroner shall require that a blood specimen of at
5 least 30 cc., and if medically possible a urine specimen of at
6 least 30 cc. or as much as possible up to 30 cc., be withdrawn
7 from the body of the decedent in a timely fashion after the
8 accident causing his death, by such physician as has been
9 designated in accordance with Section 3-3014, or by the coroner
10 or deputy coroner or a qualified person designated by such
11 physician, coroner, or deputy coroner. If the county does not
12 maintain laboratory facilities for making such analysis, the
13 blood and urine so drawn shall be sent to the Department of
14 State Police or any other accredited or State-certified
15 laboratory for analysis of the alcohol, carbon monoxide, and
16 dangerous or narcotic drug content of such blood and urine
17 specimens. Each specimen submitted shall be accompanied by
18 pertinent information concerning the decedent upon a form
19 prescribed by such laboratory. Any person drawing blood and
20 urine and any person making any examination of the blood and
21 urine under the terms of this Division shall be immune from all
22 liability, civil or criminal, that might otherwise be incurred
23 or imposed.

24 In all other cases coming within the jurisdiction of the
25 coroner and referred to in subparagraphs (a) through (e) above,
26 blood, and whenever possible, urine samples shall be analyzed

1 for the presence of alcohol and other drugs. When the coroner
2 suspects that drugs may have been involved in the death, either
3 directly or indirectly, a toxicological examination shall be
4 performed which may include analyses of blood, urine, bile,
5 gastric contents and other tissues. When the coroner suspects a
6 death is due to toxic substances, other than drugs, the coroner
7 shall consult with the toxicologist prior to collection of
8 samples. Information submitted to the toxicologist shall
9 include information as to height, weight, age, sex and race of
10 the decedent as well as medical history, medications used by
11 and the manner of death of decedent.

12 When the coroner or medical examiner finds that the cause
13 of death is due to homicidal means, the coroner or medical
14 examiner shall cause blood and buccal specimens (tissue may be
15 submitted if no uncontaminated blood or buccal specimen can be
16 obtained), whenever possible, to be withdrawn from the body of
17 the decedent in a timely fashion. Within 45 days after the
18 collection of the specimens, the coroner or medical examiner
19 shall deliver those specimens, dried, to the Illinois
20 Department of State Police, Division of Forensic Services, for
21 analysis and categorizing into genetic marker groupings to be
22 maintained by the Illinois Department of State Police in the
23 State central repository in the same manner, and subject to the
24 same conditions, as provided in Section 5-4-3 of the Unified
25 Code of Corrections. The requirements of this paragraph are in
26 addition to any other findings, specimens, or information that

1 the coroner or medical examiner is required to provide during
2 the conduct of a criminal investigation.

3 In all counties, in cases of apparent suicide, homicide, or
4 accidental death or in other cases, within the discretion of
5 the coroner, the coroner may summon 8 persons of lawful age
6 from those persons drawn for petit jurors in the county. The
7 summons shall command these persons to present themselves
8 personally at such a place and time as the coroner shall
9 determine, and may be in any form which the coroner shall
10 determine and may incorporate any reasonable form of request
11 for acknowledgement which the coroner deems practical and
12 provides a reliable proof of service. The summons may be served
13 by first class mail. From the 8 persons so summoned, the
14 coroner shall select 6 to serve as the jury for the inquest.
15 Inquests may be continued from time to time, as the coroner may
16 deem necessary. The 6 jurors selected in a given case may view
17 the body of the deceased. If at any continuation of an inquest
18 one or more of the original jurors shall be unable to continue
19 to serve, the coroner shall fill the vacancy or vacancies. A
20 juror serving pursuant to this paragraph shall receive
21 compensation from the county at the same rate as the rate of
22 compensation that is paid to petit or grand jurors in the
23 county. The coroner shall furnish to each juror without fee at
24 the time of his discharge a certificate of the number of days
25 in attendance at an inquest, and, upon being presented with
26 such certificate, the county treasurer shall pay to the juror

1 the sum provided for his services.

2 In counties which have a jury commission, in cases of
3 apparent suicide or homicide or of accidental death, the
4 coroner may conduct an inquest. The jury commission shall
5 provide at least 8 jurors to the coroner, from whom the coroner
6 shall select any 6 to serve as the jury for the inquest.
7 Inquests may be continued from time to time as the coroner may
8 deem necessary. The 6 jurors originally chosen in a given case
9 may view the body of the deceased. If at any continuation of an
10 inquest one or more of the 6 jurors originally chosen shall be
11 unable to continue to serve, the coroner shall fill the vacancy
12 or vacancies. At the coroner's discretion, additional jurors to
13 fill such vacancies shall be supplied by the jury commission. A
14 juror serving pursuant to this paragraph in such county shall
15 receive compensation from the county at the same rate as the
16 rate of compensation that is paid to petit or grand jurors in
17 the county.

18 In addition, in every case in which domestic violence is
19 determined to be a contributing factor in a death, the coroner
20 shall report the death to the Department of State Police.

21 All deaths in State institutions and all deaths of wards of
22 the State in private care facilities or in programs funded by
23 the Department of Human Services under its powers relating to
24 mental health and developmental disabilities or alcoholism and
25 substance abuse or funded by the Department of Children and
26 Family Services, and all deaths of nursing home residents,

1 whether in a nursing home or elsewhere, shall be reported to
2 the coroner of the county in which the facility is located. If
3 the coroner has reason to believe that an investigation is
4 needed to determine whether the death was caused by
5 maltreatment or negligent care of the ward of the State or the
6 nursing home resident, the coroner may conduct a preliminary
7 investigation of the circumstances of such death as in cases of
8 death under circumstances set forth in paragraphs (a) through
9 (e) of this Section.

10 (Source: P.A. 94-924, eff. 1-1-07; 95-484, eff. 6-1-08.)

11 Section 55. The Nursing Home Care Act is amended by
12 changing Sections 1-130, 2-104, 2-106.1, 2-111, 2-201.5,
13 2-201.6, 2-202, 2-205, 2-208, 3-103, 3-109, 3-112, 3-113,
14 3-117, 3-119, 3-202, 3-206, 3-303, 3-304.1, 3-305, 3-306,
15 3-309, 3-310, 3-501, 3-504, 3-515, and 3-602 and by adding
16 Sections 1-114.7, 2-209.1, 2-209.2, 2-114, 3-109a, 3-202.6,
17 3-206.06, 3-304.2, 3-702.1, 3-806, and 3-808 as follows:

18 (210 ILCS 45/1-114.7 new)

19 Sec. 1-114.7. Liability insurance. "Liability insurance"
20 means insurance on risks based upon neglect of a resident for
21 which a licensee is or may be responsible.

22 (210 ILCS 45/1-130) (from Ch. 111 1/2, par. 4151-130)

23 Sec. 1-130. A "Type 'B' violation" means a violation of

1 this Act or of the rules promulgated thereunder which creates a
2 condition or occurrence relating to the operation and
3 maintenance of a facility that could negatively affect directly
4 ~~threatening to~~ the health, safety, or welfare of a resident.

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

6 (210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

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

1 operating procedures and review criteria for the institutional
2 review board committees shall be prescribed under rules and
3 regulations of the Department, and shall comply with the
4 requirements for institutional review boards established by
5 the Food and Drug Administration. No person who has received
6 compensation in the prior 3 years from an entity that
7 manufactures, distributes, or sells pharmaceuticals,
8 biologics, or medical devices may serve on the Department
9 board. The Board may approve only research or treatment which
10 meets the standards of the Food and Drug Administration with
11 respect to the protection of human subjects, and financial
12 disclosure by clinical investigators. The Office of State Long
13 Term Care Ombudsman, the Guardianship and Advocacy Commission,
14 and the State Protection and Advocacy organization shall be
15 given an opportunity to comment on any request for approval,
16 prior to the Board making a decision. The Board shall require
17 frequent reporting of the progress of the approved research or
18 treatment and its impact on residents, including immediate
19 reporting of any adverse impact to the resident, the resident's
20 representative, the Office of the State Long Term Care
21 Ombudsman, the Guardianship and Advocacy Commission, and the
22 State Protection and Advocacy organization. The Board may not
23 approve any retrospective study of the records of any resident
24 about the safety or efficacy of any care or treatment, if the
25 resident was under the care of the proposed researcher or a
26 business associate when the care or treatment was given. No

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

16 (b) All medical treatment and procedures shall be
17 administered as ordered by a physician. The facility shall
18 assure that a psychiatrist is available to assume
19 responsibility for the care of any resident who has been
20 admitted primarily because of a mental illness. For the purpose
21 of this subsection, "psychiatrist" has the same meaning
22 ascribed to that term in Section 1-121 the Mental Health and
23 Developmental Disabilities Code. All new physician orders
24 shall be reviewed by the facility's director of nursing or
25 charge nurse designee within 24 hours after such orders have
26 been issued to assure facility compliance with such orders.

1 All new physician orders shall be reviewed by the
2 facility's director of nursing or charge nurse designee within
3 24 hours after such orders have been issued to assure facility
4 compliance with such orders.

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

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

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

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

22 (210 ILCS 45/2-106.1)

23 Sec. 2-106.1. Drug treatment.

24 (a) A resident shall not be given unnecessary drugs. An
25 unnecessary drug is any drug used in an excessive dose,

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

10 (b) Psychotropic medication shall not be prescribed
11 without the informed consent of the resident, the resident's
12 guardian, or other authorized representative. "Psychotropic
13 medication" means medication that is used for or listed as used
14 for antipsychotic, antidepressant, antimanic, or antianxiety
15 behavior modification or behavior management purposes in the
16 latest editions of the AMA Drug Evaluations or the Physician's
17 Desk Reference. The Department shall adopt, by rule, a protocol
18 by which informed consent for psychotropic medication may be
19 obtained or refused, and shall designate informed consent
20 forms, specific to each psychotropic medication, to be used for
21 every resident. In addition to any other penalty prescribed by
22 law, a facility which is found to have violated this provision,
23 or the federal certification requirement that informed consent
24 be obtained prior to administering a psychotropic medication,
25 shall be required to videotape all future interactions with
26 residents, guardians, or other authorized representatives that

1 are designed to obtain informed consent or which purport to
2 have done so, unless (i) the informed consent is obtained by a
3 physician and the resident objects to videotaping, (ii) the
4 informed consent is obtained in a court proceeding, or (iii)
5 authorization to administer psychotropic medication without
6 informed consent is obtained in a judicial proceeding.

7 (c) The requirements of this Section are intended to
8 control in a conflict with the requirements of Sections 2-102
9 and 2-107.2 of the Mental Health and Developmental Disabilities
10 Code with respect to the administration of psychotropic
11 medication.

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

13 (210 ILCS 45/2-111) (from Ch. 111 1/2, par. 4152-111)

14 Sec. 2-111.

15 (a) A resident may be discharged from a facility after he
16 gives the administrator, a physician, or a nurse of the
17 facility written notice of his desire to be discharged. If a
18 guardian has been appointed for a resident or if the resident
19 is a minor, the resident shall be discharged upon written
20 consent of his guardian or if the resident is a minor, his
21 parent unless there is a court order to the contrary. In such
22 cases, upon the resident's discharge, the facility is relieved
23 from any responsibility for the resident's care, safety or
24 well-being.

25 (b) Notwithstanding the provisions in subsection (a), a

1 resident who has been admitted to a nursing facility that is
2 also a mental health facility as defined in Section 1-114 of
3 the Mental Health and Developmental Disabilities Code shall be
4 discharged pursuant to the provisions of that Code, including
5 but not limited to Sections 3-300, 3-403, 3-404, 3-900, 3-901,
6 3-902, 3-903, 3-904, and 3-905 of that Code.

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

8 (210 ILCS 45/2-114 new)

9 Sec. 2-114. Unlawful discrimination. No resident shall be
10 subjected to unlawful discrimination as defined in Section
11 1-103 of the Illinois Human Rights Act by any owner, licensee,
12 administrator, employee, or agent of a facility.

13 (210 ILCS 45/2-201.5)

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

15 (a) All persons age 18 or older seeking admission to a
16 nursing facility must be screened to determine the need for
17 nursing facility services prior to being admitted, regardless
18 of income, assets, or funding source. In addition, any person
19 who seeks to become eligible for medical assistance from the
20 Medical Assistance Program under the Illinois Public Aid Code
21 to pay for long term care services while residing in a facility
22 must be screened prior to receiving those benefits. Screening
23 for nursing facility services shall be administered through
24 procedures established by administrative rule. Screening may

1 be done by agencies other than the Department as established by
2 administrative rule. This Section applies on and after July 1,
3 1996.

4 (a-1) Any screening performed pursuant to subsection (a) of
5 this Section shall include a determination of whether any
6 person whose care is being funded in whole or part by funds
7 from the Medical Assistance Program under the Illinois Public
8 Aid Code is being considered for admission solely due to his or
9 her need for mental health services. If the person is
10 determined to need nursing facility services solely due to his
11 or her need for mental health services, the screening shall
12 also include an evaluation of whether there is an array of
13 community mental health services, including but not limited to,
14 supported or assisted housing, assertive community treatment,
15 and peer support services, that would enable the person to live
16 safely and humanely in the community and whose cost to the
17 State would be less than the cost to the State of treatment in
18 a nursing facility. In determining the cost to the State for
19 care in a nursing facility or care in the community, the
20 evaluation shall subtract any funds payable by the federal
21 government from the total costs paid by the State under the
22 Medical Assistance Program.

23 (a-2) Pre-screening for persons with a developmental
24 disability or a serious mental illness shall be performed by
25 persons licensed by the Illinois Department of Financial and
26 Professional Regulation who are competent to (i) perform a

1 clinical assessment of the individual, (ii) make a
2 determination about the individual's current need for
3 treatment, including substance abuse treatment, and (iii)
4 determine whether a facility is able to meet the needs of an
5 individual resident. The pre-screening agent shall make the
6 determinations and assessments required by this subsection
7 (a-2), and the data on which they are based, available to the
8 Department of Public Health for the purpose of performing a
9 Criminal History Analysis.

10 (a-3) Pre-screeners shall monitor the facility
11 care-planning process, and shall participate as necessary, for
12 at least the first 90 days after a resident with a serious
13 mental illness is admitted to a facility to insure that the
14 resident is receiving appropriate care and services,
15 including, if the resident chooses, any care and services the
16 resident needs to live in a community setting as soon as
17 possible. The pre-screener shall assist the resident in
18 establishing a relationship with a community mental health
19 agency.

20 (a-4) Pre-screening for persons whose initial stay in a
21 facility will not be paid for pursuant to Title XVIII of the
22 Social Security Act shall include a criminal history background
23 check pursuant to the Uniform Conviction Information Act.
24 Background checks conducted pursuant to this Section shall be
25 based on the resident's name, date of birth, and other
26 identifiers as required by the Department of State Police. If

1 the results of the background check are inconclusive, the
2 pre-screening agent shall initiate a fingerprint-based check.
3 The Director of the Department may waive the requirement of a
4 fingerprint based-check, based on verification by the
5 Department that the individual is completely immobile or that
6 the individual meets other criteria related to the individual's
7 health or lack of potential risk to other persons within the
8 facility. The Department, in consultation with the Department
9 of Corrections, the Department of State Police, the Office of
10 State Long Term Care Ombudsman, and the Attorney General, may
11 establish these criteria by Departmental rule. A waiver issued
12 pursuant to this Section shall be valid only while the
13 individual is immobile or while the criteria supporting the
14 waiver exist. The agent shall provide for or arrange for any
15 required fingerprint-based checks, including one required for
16 a criminal background check performed by the Federal Bureau of
17 Investigation, to be taken at the individual's current
18 residence or at another mutually acceptable place. If a
19 fingerprint-based check is required, the agent shall arrange
20 for it to be conducted in a manner that is respectful of the
21 individual's dignity and that minimizes any emotional or
22 physical hardship to the individual.

23 (b) In addition to the pre-screening ~~screening~~ of all
24 persons required by subsections ~~subsection~~ (a), (a-2), and
25 (a-3), a facility, except for those licensed as long term care
26 for under age 22 facilities, shall, within 24 hours after

1 admission, request a criminal history background check
2 pursuant to the Uniform Conviction Information Act for all
3 persons age 18 or older who have been admitted seeking
4 admission to the facility and whose initial stay is being paid
5 for pursuant to Title XVIII of the Social Security Act.
6 Background checks conducted pursuant to this Section shall be
7 based on the resident's name, date of birth, and other
8 identifiers as required by the Department of State Police. If
9 the results of the background check are inconclusive, the
10 facility shall initiate a fingerprint-based check. The , unless
11 the fingerprint check is waived by the Director of Public
12 Health may waive the requirement of a fingerprint based-check
13 based on verification by the facility that the resident is
14 completely immobile or that the resident meets other criteria
15 related to the resident's health or lack of potential risk to
16 other persons in the facility. The Department, in consultation
17 with the Department of Corrections, the Department of State
18 Police, the Office of State Long Term Care Ombudsman, and the
19 Attorney General, may establish these criteria which may be
20 established by Departmental rule. A waiver issued pursuant to
21 this Section shall be valid only while the resident is immobile
22 or while the criteria supporting the waiver exist. The facility
23 shall provide for or arrange for any required fingerprint-based
24 checks, including one required for a criminal background check
25 performed by the Federal Bureau of Investigation, to be taken
26 on the premises of the facility. If a fingerprint-based check

1 is required, the facility shall arrange for it to be conducted
2 in a manner that is respectful of the resident's dignity and
3 that minimizes any emotional or physical hardship to the
4 resident.

5 A facility, except for those licensed as long term care for
6 under age 22 facilities, shall, within 60 days after the
7 effective date of this amendatory Act of the 94th General
8 Assembly, request a criminal history background check pursuant
9 to the Uniform Conviction Information Act for all persons who
10 are residents of the facility on the effective date of this
11 amendatory Act of the 94th General Assembly. The facility shall
12 review the results of the criminal history background checks
13 immediately upon receipt thereof. If the results of the
14 background check are inconclusive, the facility shall initiate
15 a fingerprint-based check unless the fingerprint-based check
16 is waived by the Director of Public Health based on
17 verification by the facility that the resident is completely
18 immobile or that the resident meets other criteria related to
19 the resident's health or lack of potential risk which may be
20 established by Departmental rule. A waiver issued pursuant to
21 this Section shall be valid only while the resident is immobile
22 or while the criteria supporting the waiver exist. The facility
23 shall provide for or arrange for any required fingerprint-based
24 checks to be taken on the premises of the facility. If a
25 fingerprint-based check is required, the facility shall
26 arrange for it to be conducted in a manner that is respectful

1 of the resident's dignity and that minimizes any emotional or
2 physical hardship to the resident.

3 (b-1) The Department of State Police shall request criminal
4 history record information from the Federal Bureau of
5 Investigation for any person determined to be an identified
6 offender. An identified offender who has not already submitted
7 to a fingerprint-based check shall be required to do so as a
8 condition of admission to a facility. The results of the
9 Federal Bureau of Investigation criminal background check
10 shall be made available to the Department of Public Health for
11 the purpose of completing a Criminal History Analysis pursuant
12 to Section 2-201.6. The Director of Public Health may waive the
13 requirement of a fingerprint-based check, based on
14 verification by the facility that the resident is completely
15 immobile or that the resident meets other criteria related to
16 the resident's health or lack of potential risk to other
17 persons in the facility. The Department, in consultation with
18 the Department of Corrections, the Department of State Police,
19 the Office of State Long Term Care Ombudsman, and the Attorney
20 General, may establish these criteria by Departmental rule.

21 (b-2) The Department of State Police shall transmit a copy
22 of the results of each background check to the pre-screening
23 agent, along with an indication of whether the individual is an
24 identified offender as defined in Section 1-114.01. The
25 Department of State Police shall electronically transmit a copy
26 of the results of all background checks to the Department of

1 Public Health, along with an indication of whether the
2 individual is an identified offender as defined in Section
3 1-114.01 and the name of the facility or agent that initiated
4 the background check. The Department of Public Health shall
5 maintain a database of the results. With the consent of the
6 individual or the individual's representative, the results of
7 the individual's background check shall be made available to
8 any facility seeking to admit that individual as a resident. No
9 facility may admit an individual required to have a background
10 check prior to admission without first receiving the results of
11 a background check conducted pursuant to this Section.

12 (c) If the results of a resident's criminal history
13 background check reveal that the resident is an identified
14 offender as defined in Section 1-114.01, ~~the facility shall~~
15 ~~immediately fax the resident's name and criminal history~~
16 ~~information to the Illinois Department of Public Health, which~~
17 shall conduct a Criminal History Analysis pursuant to Section
18 2-201.6. The Criminal History Analysis shall be conducted
19 independently of the Illinois Department of Public Health's
20 Office of Healthcare Regulation. The Office of Healthcare
21 Regulation shall have no involvement with the process of
22 reviewing or analyzing the criminal history of identified
23 offenders. After consultation with the Department of
24 Corrections, the Department of State Police, the Office of
25 State Long Term Care Ombudsman, and the Attorney General, the
26 Department of Public Health may by rule waive the requirement

1 of performing a criminal history analysis for persons who are
2 not sex offenders and who, by virtue of the nature of any
3 offense and the time that has passed since their last
4 conviction and release from custody, pose a negligible risk of
5 harm to persons within a facility.

6 (d) The Illinois Department of Public Health shall keep a
7 continuing record of all residents determined to be identified
8 offenders under Section 1-114.01 and shall report the number of
9 identified offender residents annually to the General
10 Assembly.

11 (e) The Department shall maintain a database of residents
12 who have attacked other residents, and the attendant
13 circumstances, for the purpose of assessing and improving
14 resident pre-screening and assessment procedures (including
15 the Criminal History Analysis), and the adequacy of Department
16 requirements about the provision of services to residents. A
17 resident shall not be listed in the database until a Department
18 survey confirms the appropriateness of the listing. The names
19 of persons listed in the database and information that would
20 allow them to be individually identified shall not be made
21 public.

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

23 (210 ILCS 45/2-201.6)

24 Sec. 2-201.6. Criminal History Analysis.

25 (a) The Department shall immediately commence a Criminal

1 History Analysis when it receives information, through the
2 criminal history background check required pursuant to
3 subsection (b) of Section 2-201.5 or through any other means,
4 that a resident of a facility is an identified offender.

5 (b) The Department shall complete the Criminal History
6 Analysis as soon as practicable, but not later than 14 days
7 after receiving notice from the facility under subsection (a).

8 (c) The Criminal History Analysis shall include, but not be
9 limited to, all of the following:

10 (1) Consultation with the identified offender's
11 assigned parole agent or probation officer, if applicable.

12 (2) Consultation with the convicting prosecutor's
13 office.

14 (3) A review of the statement of facts, police reports,
15 and victim impact statements, if available.

16 (4) (Blank) An interview with the identified offender.

17 (4.3) A review of presentence reports.

18 (4.4) A review of medical or mental health records or
19 summaries of the identified offender.

20 (4.5) A screening and assessment of the identified
21 offender's eligibility for substance abuse treatment.

22 (4.6.) An interview with the identified offender
23 conducted by the pre-screening agent or another person
24 licensed by the Illinois Department of Financial and
25 Professional Regulation who is competent to perform a
26 clinical assessment.

1 (5) Consultation with the facility administrator or
2 facility medical director, or both, regarding the physical
3 condition of the identified offender.

4 (6) Consideration of the entire criminal history of the
5 offender, including the date of the identified offender's
6 last conviction relative to the date of admission to a
7 long-term care facility, the duration of the offender's
8 last period of custody, and the period of time since the
9 offender's last period of custody.

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

23 Upon request, the Illinois Department of Corrections shall
24 make the records described in this subsection (c) available to
25 the Department of Public Health.

26 (d) The Department shall prepare an individualized a

1 Criminal History Analysis Report based on the analysis
2 conducted pursuant to subsection (c). The Report shall include
3 a summary of the Risk Analysis and shall detail whether and to
4 what extent the identified offender's criminal history
5 necessitates the implementation of security measures within
6 the long-term care facility. The Report shall describe what
7 monitoring, evaluation, treatment, and other security measures
8 should be taken to minimize the risk the offender poses within
9 the facility, beyond those required by this Act or required for
10 certification under the federal Medicare program under Title
11 XVIII of the Social Security Act or the federal Medicaid
12 program under Title XIX of the Social Security Act. If the
13 identified offender is a convicted or registered sex offender
14 or if the Department's Criminal History Analysis reveals that
15 the identified offender poses a significant risk of harm to
16 others within the facility, the offender shall be required to
17 have his or her own room within the facility.

18 (e) The Criminal History Analysis Report shall promptly be
19 provided to the following:

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

22 (2) The Chief of Police of the municipality in which
23 the facility is located.

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

25 (f) The facility shall incorporate the Criminal History
26 Analysis Report into the identified offender's care plan

1 created pursuant to 42 CFR 483.20.

2 (g) If, based on the Criminal History Analysis Report, a
3 facility determines that it cannot manage the identified
4 offender resident safely within the facility, it shall commence
5 involuntary transfer or discharge proceedings pursuant to
6 Section 3-402.

7 (h) Except for willful and wanton misconduct, any person
8 authorized to participate in the development of a Criminal
9 History Analysis or Criminal History Analysis Report is immune
10 from criminal or civil liability for any acts or omissions as
11 the result of his or her good faith effort to comply with this
12 Section.

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

14 (210 ILCS 45/2-202) (from Ch. 111 1/2, par. 4152-202)

15 Sec. 2-202. (a) Before a person is admitted to a facility,
16 or at the expiration of the period of previous contract, or
17 when the source of payment for the resident's care changes from
18 private to public funds or from public to private funds, a
19 written contract shall be executed between a licensee and the
20 following in order of priority:

21 (1) the person, or if the person is a minor, his parent
22 or guardian; or

23 (2) the person's guardian, if any, or agent, if any, as
24 defined in Section 2-3 of the Illinois Power of Attorney
25 Act; or

1 (3) a member of the person's immediate family.

2 An adult person shall be presumed to have the capacity to
3 contract for admission to a long term care facility unless he
4 has been adjudicated a "disabled person" within the meaning of
5 Section 11a-2 of the Probate Act of 1975, or unless a petition
6 for such an adjudication is pending in a circuit court of
7 Illinois.

8 If there is no guardian, agent or member of the person's
9 immediate family available, able or willing to execute the
10 contract required by this Section and a physician determines
11 that a person is so disabled as to be unable to consent to
12 placement in a facility, or if a person has already been found
13 to be a "disabled person", but no order has been entered
14 allowing residential placement of the person, that person may
15 be admitted to a facility before the execution of a contract
16 required by this Section; provided that a petition for
17 guardianship or for modification of guardianship is filed
18 within 15 days of the person's admission to a facility, and
19 provided further that such a contract is executed within 10
20 days of the disposition of the petition.

21 No adult shall be admitted to a facility if he objects,
22 orally or in writing, to such admission, except as otherwise
23 provided in Chapters III and IV of the Mental Health and
24 Developmental Disabilities Code or Section 11a-14.1 of the
25 Probate Act of 1975.

26 If a person has not executed a contract as required by this

1 Section, then such a contract shall be executed on or before
2 July 1, 1981, or within 10 days after the disposition of a
3 petition for guardianship or modification of guardianship that
4 was filed prior to July 1, 1981, whichever is later.

5 Before a licensee enters a contract under this Section, it
6 shall provide the prospective resident and his guardian, if
7 any, with written notice of the licensee's policy regarding
8 discharge of a resident whose private funds for payment of care
9 are exhausted.

10 (b) A resident shall not be discharged or transferred at
11 the expiration of the term of a contract, except as provided in
12 Sections 3-401 through 3-423.

13 (c) At the time of the resident's admission to the
14 facility, a copy of the contract shall be given to the
15 resident, his guardian, if any, and any other person who
16 executed the contract.

17 (d) A copy of the contract for a resident who is supported
18 by nonpublic funds other than the resident's own funds shall be
19 made available to the person providing the funds for the
20 resident's support.

21 (e) The original or a copy of the contract shall be
22 maintained in the facility and be made available upon request
23 to representatives of the Department and the Department of
24 Healthcare and Family Services.

25 (f) The contract shall be written in clear and unambiguous
26 language and shall be printed in not less than 12-point type.

1 The general form of the contract shall be prescribed by the
2 Department.

3 (g) The contract shall specify:

4 (1) the term of the contract;

5 (2) the services to be provided under the contract and
6 the charges for the services;

7 (3) the services that may be provided to supplement the
8 contract and the charges for the services;

9 (4) the sources liable for payments due under the
10 contract;

11 (5) the amount of deposit paid; and

12 (6) the rights, duties and obligations of the resident,
13 except that the specification of a resident's rights may be
14 furnished on a separate document which complies with the
15 requirements of Section 2-211.

16 (h) The contract shall designate the name of the resident's
17 representative, if any. The resident shall provide the facility
18 with a copy of the written agreement between the resident and
19 the resident's representative which authorizes the resident's
20 representative to inspect and copy the resident's records and
21 authorizes the resident's representative to execute the
22 contract on behalf of the resident required by this Section.

23 (i) The contract shall provide that if the resident is
24 compelled by a change in physical or mental health to leave the
25 facility, the contract and all obligations under it shall
26 terminate on 7 days notice. No prior notice of termination of

1 the contract shall be required, however, in the case of a
2 resident's death. The contract shall also provide that in all
3 other situations, a resident may terminate the contract and all
4 obligations under it with 30 days notice. All charges shall be
5 prorated as of the date on which the contract terminates, and,
6 if any payments have been made in advance, the excess shall be
7 refunded to the resident. This provision shall not apply to
8 life-care contracts through which a facility agrees to provide
9 maintenance and care for a resident throughout the remainder of
10 his life nor to continuing-care contracts through which a
11 facility agrees to supplement all available forms of financial
12 support in providing maintenance and care for a resident
13 throughout the remainder of his life.

14 (j) In addition to all other contract specifications
15 contained in this Section admission contracts shall also
16 specify:

17 (1) whether the facility accepts Medicaid clients;

18 (2) whether the facility requires a deposit of the
19 resident or his family prior to the establishment of
20 Medicaid eligibility;

21 (3) in the event that a deposit is required, a clear
22 and concise statement of the procedure to be followed for
23 the return of such deposit to the resident or the
24 appropriate family member or guardian of the person;

25 (4) that all deposits made to a facility by a resident,
26 or on behalf of a resident, shall be returned by the

1 facility within 30 days of the establishment of Medicaid
2 eligibility, unless such deposits must be drawn upon or
3 encumbered in accordance with Medicaid eligibility
4 requirements established by the Department of Healthcare
5 and Family Services.

6 (j-1) Neither the admissions contract nor any other
7 contract signed by the resident or resident's representative
8 may require a resident to submit to arbitration a dispute which
9 has not yet arisen between the resident and the facility. Such
10 a provision shall be neither valid nor enforceable.

11 (k) It shall be a business offense for a facility to
12 knowingly and intentionally both retain a resident's deposit
13 and accept Medicaid payments on behalf of that resident.

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

15 (210 ILCS 45/2-205) (from Ch. 111 1/2, par. 4152-205)

16 Sec. 2-205. The following information is subject to
17 disclosure to the public from the Department or the Department
18 of Healthcare and Family Services:

19 (1) Information submitted under Sections 3-103
20 (including a facility's proof of liability insurance
21 coverage) and 3-207 except information concerning the
22 remuneration of personnel licensed, registered, or
23 certified by the Department of Professional Regulation and
24 monthly charges for an individual private resident;

25 (2) Records of license and certification inspections,

1 surveys, and evaluations of facilities, other reports of
2 inspections, surveys, and evaluations of resident care,
3 and reports concerning a facility prepared pursuant to
4 Titles XVIII and XIX of the Social Security Act, subject to
5 the provisions of the Social Security Act;

6 (3) Cost and reimbursement reports submitted by a
7 facility under Section 3-208, reports of audits of
8 facilities, and other public records concerning costs
9 incurred by, revenues received by, and reimbursement of
10 facilities; and

11 (4) Complaints filed against a facility and complaint
12 investigation reports, except that a complaint or
13 complaint investigation report shall not be disclosed to a
14 person other than the complainant or complainant's
15 representative before it is disclosed to a facility under
16 Section 3-702, and, further, except that a complainant or
17 resident's name shall not be disclosed except under Section
18 3-702.

19 The Department shall disclose information under this
20 Section in accordance with provisions for inspection and
21 copying of public records required by the Freedom of
22 Information Act.

23 However, the disclosure of information described in
24 subsection (1) shall not be restricted by any provision of the
25 Freedom of Information Act.

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

1 (210 ILCS 45/2-208) (from Ch. 111 1/2, par. 4152-208)

2 Sec. 2-208. A facility shall immediately notify the
3 resident's next of kin, representative, and physician of the
4 resident's death or when the resident's death appears to be
5 imminent. A facility shall immediately notify the coroner or
6 medical examiner of a resident's death on a form to be
7 designated by the coroner or medical examiner.

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

9 (210 ILCS 45/2-209.1 new)

10 Sec. 2-209.1. Resident in need of substance abuse
11 treatment. A facility may admit a resident determined by the
12 pre-screening agent or the Criminal History Analysis Report to
13 be in need of substance abuse treatment only if the facility is
14 licensed by the Department of Human Services to provide
15 substance abuse treatment services of the kind needed by the
16 resident, unless the resident's need for medical care for a
17 physical illness is determined by the agent to make substance
18 abuse treatment impracticable.

19 (210 ILCS 45/2-209.2 new)

20 Sec. 2-209.2. Resident; identified offender.

21 (a) A facility may not admit any person who is required to
22 have a criminal history background check prior to admission and
23 is an identified offender who was last released from custody

1 within the immediately preceding 3 years, unless the person is
2 completely immobile or the Department determines that the
3 resident meets other criteria related to the person's health or
4 lack of potential risk to other persons in the facility. The
5 Department, in consultation with the Department of
6 Corrections, the Department of State Police, the Office of
7 State Long Term Care Ombudsman, and the Attorney General, may
8 establish these criteria by Departmental rule.

9 (b) A facility may not retain as a resident any person
10 whose initial stay is being paid for pursuant to Title XVIII of
11 the Social Security Act and who is determined after admission
12 to be an identified offender who was last released from custody
13 during the immediately preceding 3 years, unless the resident
14 is completely immobile or the Department determines that the
15 resident meets other criteria related to the person's health or
16 lack of potential risk to other persons in the facility. The
17 Department, in consultation with the Department of
18 Corrections, the Department of State Police, the Office of
19 State Long Term Care Ombudsman, and the Attorney General, may
20 establish these criteria by Departmental rule.

21 (c) The Department of Human Services' Division of Mental
22 Health shall provide or arrange for appropriate care and
23 services to any person denied admission to or discharged from a
24 nursing facility pursuant to this Section, or who is determined
25 by the pre-screener or by the Department to not require
26 hospital care but to pose an unacceptable risk to other persons

1 in a licensed facility, and who needs long-term care services
2 primarily because of a mental illness.

3 (d) The Department of Corrections shall provide or arrange
4 for appropriate care and services for any person denied
5 admission to or discharged from a nursing facility pursuant to
6 this Section, or who is determined by the pre-screener or by
7 the Department to not require hospital care but to pose an
8 unacceptable risk to other persons in a licensed facility, and
9 who needs long-term care services primarily because of a
10 physical illness.

11 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

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

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

16 (2) All license applications shall be accompanied with
17 an application fee. The fee for an annual license shall be
18 \$995. Facilities that pay a fee or assessment pursuant to
19 Article V-C of the Illinois Public Aid Code shall be exempt
20 from the license fee imposed under this item (2). The fee
21 for a 2-year license shall be double the fee for the annual
22 license set forth in the preceding sentence. The fees
23 collected shall be deposited with the State Treasurer into
24 the Long Term Care Monitor/Receiver Fund, which has been
25 created as a special fund in the State treasury. This

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

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

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

25 (c) The name of the person or persons under whose
26 management or supervision the facility will be

1 conducted;

2 (d) The number and type of residents for which
3 maintenance, personal care, or nursing is to be
4 provided; and

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

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

24 (4) Other information necessary to determine the
25 identity and qualifications of an applicant to operate a
26 facility in accordance with this Act shall be included in

1 the application as required by the Department in
2 regulations.

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

4 (210 ILCS 45/3-109) (from Ch. 111 1/2, par. 4153-109)

5 Sec. 3-109. Upon receipt and review of an application for a
6 license made under this Article and inspection of the applicant
7 facility under this Article, the Director shall issue a license
8 if he finds:

9 (1) that the individual applicant, or the corporation,
10 partnership or other entity if the applicant is not an
11 individual, is a person responsible and suitable to operate
12 or to direct or participate in the operation of a facility
13 by virtue of financial capacity, appropriate business or
14 professional experience, a record of compliance with
15 lawful orders of the Department and lack of revocation of a
16 license during the previous 5 years;

17 (2) that the facility is under the supervision of an
18 administrator who is licensed, if required, under the
19 Nursing Home Administrators Licensing and Disciplinary
20 Act, as now or hereafter amended; ~~and~~

21 (2.1) that the facility is covered by liability
22 insurance as required by this Act;

23 (3) that the facility is in substantial compliance with
24 this Act; ~~and , and such other requirements for a license~~
25 ~~as the Department by rule may establish under this Act.~~

1 (4) that every person required to comply with Section
2 3-109.a of this Act, has successfully met the educational
3 requirement of that Section, and such other requirements
4 for a license as the Department by rule may establish under
5 this Act.

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

7 (210 ILCS 45/3-109a new)

8 Sec. 3-109a. Instructional program for facility employees.

9 (a) Every person with a reportable ownership interest in a
10 facility for which a license is sought pursuant to Sections
11 3-103 or 3-112 of this Act, and any person who acquires a
12 reportable ownership interest in a licensed facility, shall
13 complete a course of 24 hours instruction on the legal
14 requirements for operating a licensed and certified facility,
15 the legal consequences for non-compliance, best practices and
16 innovation in nursing home care and services, and the gravity
17 of the responsibility inherent in owning and operating a
18 facility. The Department shall specify the content of the
19 instructional program, which it shall develop in consultation
20 with owners of facilities with exemplary records of compliance
21 with this Act and with federal certification requirements. The
22 instructional program shall be taught by persons employed or
23 designated by the Department, including, to the extent
24 possible, owners of facilities with exemplary records of
25 compliance with this Act and with federal certification

1 requirements. The Department shall charge a fee for the program
2 to cover its reasonable costs.

3 (b) If the applicant for a license is a corporation or a
4 unit of local government, the chief executive officer and any
5 persons with control over budgeting or hiring, or both
6 budgeting and hiring, shall be required to complete the
7 program. Any person who assumes those responsibilities after a
8 license is granted shall complete the program within 60 days
9 thereafter.

10 (c) The requirements of this Section do not apply to any
11 individual who has a reportable control ownership interest in a
12 facility as of the effective date of this amendatory Act of the
13 96th General Assembly, with respect to any facility in which
14 the individual has a reportable ownership interest. The
15 requirements of this Section do not apply to any corporation or
16 unit of local government that is a licensee as of the effective
17 date of this amendatory Act of the 96th General Assembly,
18 except that a person who assumes the responsibility of chief
19 executive officer, or who assumes control over budgeting or
20 hiring, or both budgeting and hiring, after the effective date
21 of this amendatory Act of the 96th General Assembly, shall
22 complete the program within 60 days after acquiring this
23 responsibility.

24 (d) Failure of any applicant or owner to comply with this
25 requirement is a Type "A" violation as defined in Section
26 1-129.

1 (210 ILCS 45/3-112) (from Ch. 111 1/2, par. 4153-112)

2 Sec. 3-112. (a) Whenever ownership of a facility is
3 transferred from the person named in the license to any other
4 person, the transferee must obtain a new probationary license.
5 The transferee shall notify the Department of the transfer and
6 apply for a new license at least 30 days prior to final
7 transfer. The transferee may not have had a reportable
8 ownership interest in a poorly performing facility within the
9 previous 3 years.

10 (b) The transferor shall notify the Department at least 30
11 days prior to final transfer. The transferor shall remain
12 responsible for the operation of the facility until such time
13 as a license is issued to the transferee.

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

15 (210 ILCS 45/3-113) (from Ch. 111 1/2, par. 4153-113)

16 Sec. 3-113. The license granted to the transferee shall be
17 subject to the plan of correction submitted by the previous
18 owner and approved by the Department and any conditions
19 contained in a conditional license issued to the previous
20 owner. If there are outstanding violations and no approved plan
21 of correction has been implemented, the Department may issue a
22 conditional license and plan of correction as provided in
23 Sections 3-311 through 3-317. The license granted to a
24 transferee for a facility that is in receivership shall be

1 subject to any contractual obligations assumed by a grantee
2 under the Equity in Long-term Care Quality Act and to the plan
3 submitted by the receiver for continuing and increasing
4 adherence to best practices in providing high-quality nursing
5 home care.

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

7 (210 ILCS 45/3-117) (from Ch. 111 1/2, par. 4153-117)

8 Sec. 3-117. An application for a license shall ~~may~~ be
9 denied for any of the following reasons:

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

13 (2) Conviction of the applicant, or if the applicant is
14 a firm, partnership or association, of any of its members,
15 or if a corporation, the conviction of the corporation or
16 any of its officers or stockholders, or of the person
17 designated to manage or supervise the facility, of a
18 felony, or of 2 or more misdemeanors involving moral
19 turpitude, during the previous 5 years as shown by a
20 certified copy of the record of the court of conviction.

21 (3) Personnel insufficient in number or unqualified by
22 training or experience to properly care for the proposed
23 number and type of residents.

24 (4) Insufficient financial or other resources
25 (including failure to maintain liability insurance as

1 required by this Act) to operate and conduct the facility
2 in accordance with standards promulgated by the Department
3 under this Act and with contractual obligations assumed by
4 a receiver under the Equity in Long-term Care Quality Act
5 and the plan submitted by the receiver for continuing and
6 increasing adherence to best practices in providing
7 high-quality nursing home care.

8 (5) Revocation of a facility license during the
9 previous 5 years, if such prior license was issued to the
10 individual applicant, a controlling owner or controlling
11 combination of owners of the applicant; or any affiliate of
12 the individual applicant or controlling owner of the
13 applicant and such individual applicant, controlling owner
14 of the applicant or affiliate of the applicant was a
15 controlling owner of the prior license; provided, however,
16 that the denial of an application for a license pursuant to
17 this subsection must be supported by evidence that such
18 prior revocation renders the applicant unqualified or
19 incapable of meeting or maintaining a facility in
20 accordance with the standards and rules promulgated by the
21 Department under this Act.

22 (5.1) Having a reportable ownership interest in a
23 poorly performing facility within the previous 3 years.

24 (6) That the facility is not under the direct
25 supervision of a full-time administrator, as defined by
26 regulation, who is licensed, if required, under the Nursing

1 Home Administrators Licensing and Disciplinary Act.

2 (7) That the facility is in receivership and the
3 proposed licensee has not submitted a specific detailed
4 plan to bring the facility into compliance with the
5 requirements of this Act and with federal certification
6 requirements, if the facility is certified, and to keep the
7 facility in such compliance.

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

9 (210 ILCS 45/3-119) (from Ch. 111 1/2, par. 4153-119)

10 Sec. 3-119. (a) The Department, after notice to the
11 applicant or licensee, shall ~~may~~ suspend, revoke or refuse to
12 renew a license in any case in which the Department finds any
13 of the following:

14 (1) There has been a substantial failure to comply with
15 this Act or the rules and regulations promulgated by the
16 Department under this Act.

17 (1.1) The facility is a poorly performing facility and
18 commits a Type "A" or Type "B" violation after being
19 listed.

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

25 (2.1) A person who has a reportable ownership interest

1 in a facility that was a poorly performing facility in the
2 previous 3 years has acquired a reportable ownership
3 interest in this facility.

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

7 (4) Financial or other resources are insufficient to
8 conduct and operate the facility in accordance with
9 standards promulgated by the Department under this Act,
10 including that the facility has failed to maintain
11 liability insurance coverage as required by this Act at any
12 time during the term of its license.

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

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

21 (c) If a facility desires to contest the nonrenewal or
22 revocation of a license, the facility shall, within 10 days
23 after receipt of notice under subsection (b) of this Section,
24 notify the Department in writing of its request for a hearing
25 under Section 3-703. Upon receipt of the request the Department
26 shall send notice to the facility and hold a hearing as

1 provided under Section 3-703.

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

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

8 (2) Until otherwise ordered by the circuit court,
9 nonrenewal is effective on the date of expiration of any
10 existing license, or upon final action after hearing under
11 Section 3-703, whichever is later; however, a license shall
12 not be deemed to have expired if the Department fails to
13 timely respond to a timely request for renewal under this
14 Act or for a hearing to contest nonrenewal under paragraph
15 (c).

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

19 The Department may refuse to issue or may suspend the
20 license of any person who fails to file a return, or to pay the
21 tax, penalty or interest shown in a filed return, or to pay any
22 final assessment of tax, penalty or interest, as required by
23 any tax Act administered by the Illinois Department of Revenue,
24 until such time as the requirements of any such tax Act are
25 satisfied.

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

1 (210 ILCS 45/3-202) (from Ch. 111 1/2, par. 4153-202)

2 Sec. 3-202. The Department shall prescribe minimum
3 standards for facilities. These standards shall regulate:

4 (1) Location and construction of the facility,
5 including plumbing, heating, lighting, ventilation, and
6 other physical conditions which shall ensure the health,
7 safety, and comfort of residents and their protection from
8 fire hazard;

9 (2) Number and qualifications of all personnel,
10 including management and nursing personnel, having
11 responsibility for any part of the care given to residents;
12 specifically, the Department shall (i) establish staffing
13 ratios for facilities which shall specify the number of
14 staff hours per resident of care that are needed for
15 professional nursing care for various types of facilities
16 or areas within facilities, (ii) require consistent
17 assignment of the same nursing and other direct care staff
18 to the same residents, to the extent circumstances within
19 the control of the facility permit such assignment, and
20 (iii) respect requests by staff for reassignment. Minimum
21 staffing for a facility shall be a minimum 4.1 hours total
22 staff time per resident, including at least 0.75 hours of
23 registered nurse time, 1.2 hours total nurse time, and 2.8
24 hours certified nursing assistant time;

25 (3) All sanitary conditions within the facility and its

1 surroundings, including water supply, sewage disposal,
2 food handling, and general hygiene, which shall ensure the
3 health and comfort of residents;

4 (4) Diet related to the needs of each resident based on
5 good nutritional practice and on recommendations which may
6 be made by the physicians attending the resident;

7 (5) Equipment essential to the health and welfare of
8 the residents;

9 (6) A program of habilitation and rehabilitation for
10 those residents who would benefit from such programs;

11 (7) A program for adequate maintenance of physical
12 plant and equipment;

13 (8) Adequate accommodations, staff and services for
14 the number and types of residents for whom the facility is
15 licensed to care, including standards for temperature and
16 relative humidity within comfort zones determined by the
17 Department based upon a combination of air temperature,
18 relative humidity and air movement. Such standards shall
19 also require facility plans that provide for health and
20 comfort of residents at medical risk as determined by the
21 attending physician whenever the temperature and relative
22 humidity are outside such comfort zones established by the
23 Department. The standards must include a requirement that
24 areas of a nursing home used by residents of the nursing
25 home be air conditioned and heated by means of operable
26 air-conditioning and heating equipment. The areas subject

1 to this air-conditioning and heating requirement include,
2 without limitation, bedrooms or common areas such as
3 sitting rooms, activity rooms, living rooms, community
4 rooms, and dining rooms. No later than July 1, 2008, the
5 Department shall submit a report to the General Assembly
6 concerning the impact of the changes made by this
7 amendatory Act of the 95th General Assembly;

8 (9) Development of evacuation and other appropriate
9 safety plans for use during weather, health, fire, physical
10 plant, environmental and national defense emergencies; and

11 (10) Maintenance of minimum financial or other
12 resources necessary to meet the standards established
13 under this Section, and to operate and conduct the facility
14 in accordance with this Act.

15 (Source: P.A. 95-31, eff. 8-9-07.)

16 (210 ILCS 45/3-202.6 new)

17 Sec. 3-202.6. Liability insurance coverage required. No
18 person may establish, operate, maintain, offer, or advertise a
19 facility within this State unless and until he or she provides
20 to the Department of Public Health proof of liability insurance
21 coverage in an amount not less than \$1,000,000 per occurrence.

22 Notwithstanding any other provision of this Act, this
23 requirement may not be waived. A facility which does not
24 maintain sufficient liability insurance coverage shall provide
25 to the Department proof of sufficient coverage and proof of the

1 cost to the facility of such coverage within 10 days of
2 notification by the Department that coverage is insufficient.
3 The Department shall require the facility to pay a penalty of
4 twice what it would have cost the facility to have obtained the
5 coverage, as evidenced by the documentation provided to the
6 Department, for the period during which coverage was
7 insufficient.

8 (210 ILCS 45/3-206) (from Ch. 111 1/2, par. 4153-206)

9 Sec. 3-206. The Department shall prescribe a curriculum for
10 training nursing assistants, habilitation aides, and child
11 care aides.

12 (a) No person, except a volunteer who receives no
13 compensation from a facility and is not included for the
14 purpose of meeting any staffing requirements set forth by the
15 Department, shall act as a nursing assistant, habilitation
16 aide, or child care aide in a facility, nor shall any person,
17 under any other title, not licensed, certified, or registered
18 to render medical care by the Department of Professional
19 Regulation, assist with the personal, medical, or nursing care
20 of residents in a facility, unless such person meets the
21 following requirements:

22 (1) Be at least 16 years of age, of temperate habits
23 and good moral character, honest, reliable and
24 trustworthy;

25 (2) Be able to speak and understand the English

1 language or a language understood by a substantial
2 percentage of the facility's residents;

3 (3) Provide evidence of employment or occupation, if
4 any, and residence for 2 years prior to his present
5 employment;

6 (4) Have completed at least 8 years of grade school or
7 provide proof of equivalent knowledge;

8 (5) Begin a current course of training for nursing
9 assistants, habilitation aides, or child care aides,
10 approved by the Department, within 45 days of initial
11 employment in the capacity of a nursing assistant,
12 habilitation aide, or child care aide at any facility. Such
13 courses of training shall be successfully completed within
14 120 days of initial employment in the capacity of nursing
15 assistant, habilitation aide, or child care aide at a
16 facility. Nursing assistants, habilitation aides, and
17 child care aides who are enrolled in approved courses in
18 community colleges or other educational institutions on a
19 term, semester or trimester basis, shall be exempt from the
20 120 day completion time limit. The Department shall adopt
21 rules for such courses of training. These rules shall
22 include procedures for facilities to carry on an approved
23 course of training within the facility.

24 The Department may accept comparable training in lieu
25 of the 120 hour course for student nurses, foreign nurses,
26 military personnel, or employees ~~employes~~ of the

1 Department of Human Services.

2 The facility shall develop and implement procedures
3 and quarterly inservice training, which shall be approved
4 by the Department, for an ongoing review process, which
5 shall take place within the facility, for nursing
6 assistants, habilitation aides, and child care aides. The
7 facility shall be required to retain records of all staff
8 inservice training, and shall provide such records to the
9 Department upon request. The Department shall promulgate
10 rules for the administration of this item (5).

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

24 (6) Be familiar with and have general skills related to
25 resident care.

26 (a-0.5) An educational entity, other than a secondary

1 school, conducting a nursing assistant, habilitation aide, or
2 child care aide training program shall initiate a UCIA criminal
3 history record check prior to entry of an individual into the
4 training program. A secondary school may initiate a UCIA
5 criminal history record check prior to the entry of an
6 individual into a training program.

7 (a-1) Nursing assistants, habilitation aides, or child
8 care aides seeking to be included on the registry on or after
9 January 1, 1996 must authorize the Department of Public Health
10 or its designee that tests nursing assistants to request a UCIA
11 criminal history check and submit all necessary information.

12 (b) Persons subject to this Section shall perform their
13 duties under the supervision of a nurse.

14 (c) It is unlawful for any facility to employ any person in
15 the capacity of nursing assistant, habilitation aide, or child
16 care aide, or under any other title, not licensed by the State
17 of Illinois to assist in the personal, medical, or nursing care
18 of residents in such facility unless such person has complied
19 with this Section.

20 (d) Proof of compliance by each employee with the
21 requirements set out in this Section shall be maintained for
22 each such employee by each facility in the individual personnel
23 folder of the employee.

24 (e) Each facility shall certify to the Department on a form
25 provided by the Department the name and residence address of
26 each employee, and that each employee subject to this Section

1 meets all the requirements of this Section.

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

4 (g) Each skilled nursing and intermediate care facility
5 that admits persons who are diagnosed as having Alzheimer's
6 disease or related dementias shall require all nursing
7 assistants, habilitation aides, or child care aides, who did
8 not receive 12 hours of training in the care and treatment of
9 such residents during the training required under paragraph (5)
10 of subsection (a), to obtain 12 hours of in-house training in
11 the care and treatment of such residents. If the facility does
12 not provide the training in-house, the training shall be
13 obtained from other facilities, community colleges or other
14 educational institutions that have a recognized course for such
15 training. The Department shall, by rule, establish a recognized
16 course for such training. The Department's rules shall provide
17 that such training may be conducted in-house at each facility
18 subject to the requirements of this subsection, in which case
19 such training shall be monitored by the Department.

20 The Department's rules shall also provide for
21 circumstances and procedures whereby any person who has
22 received training that meets the requirements of this
23 subsection shall not be required to undergo additional training
24 if he or she is transferred to or obtains employment at a
25 different facility but remains continuously employed as a
26 nursing assistant, habilitation aide, or child care aide.

1 Licensed sheltered care facilities shall be exempt from the
2 requirements of this Section.

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

4 (210 ILCS 45/3-206.06 new)

5 Sec. 3-206.06. Dementia-specific and
6 mental-illness-specific orientation.

7 (a) A facility that admits or retains persons with
8 Alzheimer's disease or other dementias shall give all staff who
9 have any direct contact with these residents at least 4 hours
10 of dementia-specific orientation within their first 7 days of
11 employment. Nurses, nursing assistants, and social service and
12 activities staff who work with these residents shall, within
13 the first 45 days after employment, receive a minimum of 12
14 additional hours of orientation specifically related to the
15 care of persons with Alzheimer's disease and other dementias.
16 All staff who have any direct contact with these residents
17 shall have at least 12 hours of dementia-specific education and
18 training annually thereafter. The Department shall specify the
19 content of the orientation and the annual education and
20 training.

21 (b) A facility that admits or retains persons with a
22 serious mental illness shall give all staff who have any direct
23 contact with these residents at least 4 hours of
24 mental-illness-specific orientation within their first 7 days
25 of employment. Nurses, nursing assistants, and social service

1 and activities staff who work with these residents shall
2 receive, within the first 45 days after employment, a minimum
3 of 12 additional hours of orientation specifically related to
4 the care of persons with mental illness. All staff who have any
5 direct contact with these residents shall have at least 12
6 hours of mental-illness-specific education and training
7 annually thereafter. The Department, with the advice of the
8 Department of Human Services' Division of Mental Health, shall
9 specify the content of the orientation and the annual education
10 and training.

11 (210 ILCS 45/3-303) (from Ch. 111 1/2, par. 4153-303)

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

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

1 rejects a plan of correction, it shall send notice of the
2 rejection and the reason for the rejection to the facility. The
3 facility shall have 10 days after receipt of the notice of
4 rejection in which to submit a modified plan. If the modified
5 plan is not timely submitted, or if the modified plan is
6 rejected, the facility shall follow an approved plan of
7 correction imposed by the Department.

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

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

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

1 reheard at subsequent hearings under this Section.

2 (f) The plan of correction for any Type "A" violation, or
3 for a Type "B" violation which is the second Type "B" violation
4 cited within a 12 month period, shall include attendance by all
5 persons with a reportable ownership interest in the facility at
6 the program of instruction created pursuant to Section 3-109a
7 of this Act. If the owner is a corporation or a unit of local
8 government, the chief executive officer and any persons with
9 control over budgeting or hiring, or both budgeting or hiring,
10 shall be required to complete the program. Attendance shall be
11 completed within 60 days after the facility is served with a
12 notice of violation.

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

14 (210 ILCS 45/3-304.1)

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

16 (a) The Department must make information regarding nursing
17 homes in the State available to the public in electronic form
18 on the World Wide Web, including all of the following
19 information:

20 (1) who regulates nursing homes;

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

23 (3) deficiencies and plans of correction;

24 (4) enforcement remedies;

25 (5) penalty letters;

- 1 (6) designation of penalty monies;
- 2 (7) the U.S. Department of Health and Human Services'
- 3 Health Care Financing Administration special projects or
- 4 federally required inspections;
- 5 (8) advisory standards;
- 6 (9) deficiency-free surveys; ~~and~~
- 7 (10) enforcement actions and enforcement summaries; ;
- 8 and-
- 9 (11) poorly performing facilities.

10 (b) No fee or other charge may be imposed by the Department

11 as a condition of accessing the information.

12 (c) The electronic public access provided through the World

13 Wide Web shall be in addition to any other electronic or print

14 distribution of the information.

15 (d) The information shall be made available as provided in

16 this Section in the shortest practicable time after it is

17 publicly available in any other form.

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

19 (210 ILCS 45/3-304.2 new)

20 Sec. 3-304.2. Listing of poor-performing facilities.

21 (a) The Department shall prepare and publish quarterly a

22 list of poor-performing facilities. Criteria for inclusion of

23 certified facilities on the list shall be those adopted by the

24 U. S. General Accountability Office in report 9-689, unless the

25 Department by rule determines to modify the criteria so as to

1 better identify both chronic poor performers and facilities
2 that have recently become very poor performers. The Department
3 may not adopt selection criteria that identify fewer
4 poor-performing facilities than would the U.S. General
5 Accountability Office's criteria. The Department shall adopt
6 criteria to identify chronic poor performers and those that
7 have recently become very poor performers among facilities that
8 are not certified.

9 (b) Within 60 days after a facility is listed as a
10 poor-performing facility, every person with a reportable
11 ownership interest in the facility shall complete the course of
12 instruction created pursuant to Section 3-109a of this Act. If
13 the owner is a corporation or a unit of local government, the
14 chief executive officer and any persons with control over
15 budgeting or hiring, or both budgeting or hiring, shall
16 complete the program.

17 (c) Failure of any owner to comply with this requirement is
18 a Type "A" violation as defined in Section 1-129.

19 (210 ILCS 45/3-305) (from Ch. 111 1/2, par. 4153-305)

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

24 (1) ~~A Unless a greater penalty or fine is allowed under~~
25 ~~subsection (3), a licensee who commits a Type "A" violation as~~

1 defined in Section 1-129 is automatically issued a conditional
2 license for a period of 6 months to coincide with an acceptable
3 plan of correction and assessed a fine of not less than \$10,000
4 and not more than \$25,000 ~~computed at a rate of \$5.00 per~~
5 ~~resident in the facility plus 20 cents per resident for each~~
6 ~~day of the violation, commencing on the date a notice of the~~
7 ~~violation is served under Section 3-301 and ending on the date~~
8 ~~the violation is corrected, or a fine of not less than \$5,000,~~
9 or when death, serious mental or physical harm, permanent
10 disability, or disfigurement results, a fine of not less than
11 \$20,000 and not more than \$50,000. The amount of the fine may
12 be multiplied by the number of residents put at risk of harm or
13 harmed by the violation. The Department shall consider the
14 factors delineated in Section 3-306 in determining the exact
15 amount of the fine \$10,000, whichever is greater.

16 (2) A licensee who commits a Type "B" violation or who is
17 issued an administrative warning for a violation of Sections
18 3-401 through 3-413 or the rules promulgated thereunder is
19 subject to a fine of \$1,000 ~~penalty computed at a rate of \$3~~
20 ~~per resident in the facility, plus 15 cents per resident for~~
21 ~~each day of the violation, commencing on the date a notice of~~
22 ~~the violation is served under Section 3-301 and ending on the~~
23 ~~date the violation is corrected, or a fine not less than \$500,~~
24 ~~whichever is greater. Such fine shall be assessed on the date~~
25 ~~of notice of the violation and shall be suspended for~~
26 ~~violations that continue after such date upon completion of a~~

1 ~~plan of correction in accordance with Section 3-308 in relation~~
2 ~~to the assessment of fines and correction.~~ Failure to correct
3 such violation within the time period approved under a plan of
4 correction shall result in a fine and conditional license as
5 provided under subsection (5).

6 (3) A licensee who commits a Type "A" violation as defined
7 in Section 1-129 which continues beyond the time specified in
8 paragraph (a) of Section 3-303 which is cited as a repeat
9 violation within a one-year period shall have its license
10 revoked and shall be assessed a fine of up to 3 times the
11 maximum fine computed ~~per resident per day~~ under subsection
12 (1). A licensee who commits a Type "A" violation as defined in
13 Section 1-129 which is cited as a repeat violation within a
14 2-year period shall be assessed a fine of up to 2 times the
15 maximum fine computed under subsection (1). The Department
16 shall consider the factors delineated in Section 3-306 in
17 determining the exact amount of the fine.

18 (4) A licensee who fails to satisfactorily comply with an
19 accepted plan of correction for a Type "B" violation or an
20 administrative warning issued pursuant to Sections 3-401
21 through 3-413 or the rules promulgated thereunder shall be
22 automatically issued a conditional license for a period of not
23 less than 6 months. A second or subsequent acceptable plan of
24 correction shall be filed. A fine of \$2,000 shall be assessed
25 in accordance with subsection (2) when cited for the repeat
26 violation. ~~This fine shall be computed for all days of the~~

1 ~~violation, including the duration of the first plan of~~
2 ~~correction compliance time.~~

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

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

19 (7) For purposes of assessing fines under this Section, a
20 repeat violation shall be a violation which has been cited
21 during one inspection of the facility for which an accepted
22 plan of correction was not complied with, or which occurred
23 after an accepted plan of correction should have been filed
24 with the Department. A repeat violation shall not be a new
25 citation of the same rule, unless the licensee is not
26 substantially addressing the issue routinely throughout the

1 facility.

2 (8) The minimum and maximum fines that may be imposed
3 pursuant to this Section shall be twice those otherwise
4 specified for any facility that makes a misstatement of fact to
5 the Department or fails to make a required notification to the
6 Department if the misstatement or failure delays the start of a
7 survey or impedes a survey.

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

9 (210 ILCS 45/3-306) (from Ch. 111 1/2, par. 4153-306)

10 Sec. 3-306. In determining whether a penalty is to be
11 imposed and in determining ~~fixing~~ the amount of the penalty to
12 be imposed, if any, for a violation, the Director shall
13 consider the following factors, but shall not be required to
14 assign a specific value to each one:

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

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

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

23 (4) The financial benefit to the facility of committing or
24 continuing the violation; and ~~and~~

25 (5) The number of residents affected by the violation.

1 No fine shall be so small as to deprecate the seriousness
2 of the harm suffered by any resident.

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

4 (210 ILCS 45/3-309) (from Ch. 111 1/2, par. 4153-309)

5 Sec. 3-309. A facility may contest an assessment of a
6 penalty, including by making a demand for reimbursement for the
7 cost of a monitor, by sending a written request to the
8 Department for hearing under Section 3-703. Upon receipt of the
9 request the Department shall hold a hearing as provided under
10 Section 3-703.

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

12 (210 ILCS 45/3-310) (from Ch. 111 1/2, par. 4153-310)

13 Sec. 3-310. All penalties and the cost of any monitor shall
14 be paid to the Department within 10 days of receipt of notice
15 of assessment or, if the penalty is contested under Section
16 3-309, within 10 days of receipt of the final decision, unless
17 the decision is appealed and the order is stayed by court order
18 under Section 3-713. A penalty assessed under this Act shall be
19 collected by the Department and shall be deposited with the
20 State Treasurer into the Long Term Care Monitor/Receiver Fund.
21 If the person or facility against whom a penalty has been
22 assessed does not comply with a written demand for payment
23 within 30 days, the Director shall issue an order to do any of
24 the following:

1 (1) Direct the State Treasurer to deduct the amount of
2 the fine from amounts otherwise due from the State for the
3 penalty and remit that amount to the Department;

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

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

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

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

16 (210 ILCS 45/3-501) (from Ch. 111 1/2, par. 4153-501)

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

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

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

24 (c) The facility is closing or has informed the
25 Department that it intends to close and adequate

1 arrangements for relocation of residents have not been made
2 at least 30 days prior to closure;

3 (d) The Department determines that an emergency
4 exists, whether or not it has initiated revocation or
5 nonrenewal procedures, if because of the unwillingness or
6 inability of the licensee to remedy the emergency the
7 Department believes a monitor or receiver is necessary; ~~or~~

8 (e) The Department is notified that the facility is
9 terminated or will not be renewed for participation in the
10 federal reimbursement program under either Title XVIII or
11 Title XIX of the Social Security Act; or-

12 (f) After being designated by the Department as a
13 poorly performing facility, the facility commits a Type "A"
14 or Type "B" violation, or is cited for a deficiency in its
15 compliance with federal nursing home certification
16 requirements that have the potential to cause actual harm,
17 have caused actual harm, or create immediate jeopardy to a
18 resident.

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

22 The facility shall reimburse the Department on a monthly
23 basis for the cost of placing a monitor in the facility. When
24 the Department demands reimbursement, the facility may appeal
25 the decision to place a monitor pursuant to Section 3-703 of
26 this Act on the grounds that the requirements of this Section

1 for the placement of a monitor have not been met or, with
2 respect to paragraph (d) of this Section, that the
3 determination that an emergency existed was unreasonable. If
4 the facility prevails at the hearing, the facility shall not be
5 required to reimburse the Department for the cost of the
6 monitor, but the Department shall not be required to remove the
7 monitor.

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

9 (210 ILCS 45/3-504) (from Ch. 111 1/2, par. 4153-504)

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

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

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

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

1 prior to closure; or

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

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

7 (210 ILCS 45/3-515) (from Ch. 111 1/2, par. 4153-515)

8 Sec. 3-515. The court may terminate a receivership:

9 (a) If the time period specified in the order
10 appointing the receiver elapses and is not extended;

11 (b) If the court determines that the receivership is no
12 longer necessary because the conditions which gave rise to
13 the receivership no longer exist; or the Department grants
14 the facility a new license, whether the structure of the
15 facility, ~~the right to operate the facility,~~ or the land on
16 which it is located is under the same or different
17 ownership; or

18 (c) If all of the residents in the facility have been
19 transferred or discharged.

20 Before terminating a receivership, the court may order the
21 Department to require any licensee to comply with the
22 recommendations of the receiver made under subsection (k) of
23 Section 3-508. A licensee may petition the court to be relieved
24 of this requirement.

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

1 (210 ILCS 45/3-602) (from Ch. 111 1/2, par. 4153-602)

2 Sec. 3-602. The licensee shall pay 3 times the actual
3 damages or \$500, whichever is greater, and costs and attorney's
4 fees to a facility resident whose rights, as specified in Part
5 1 of Article II of this Act, are violated.

6 (Source: P.A. 89-197, eff. 7-21-95.)

7 (210 ILCS 45/3-702.1 new)

8 Sec. 3-702.1. Help hotline. The Department shall establish
9 a pilot project in at least 6 licensed facilities that creates
10 a hotline for the immediate resolution of requests for
11 assistance in securing appropriate care and services for a
12 resident. The Department shall establish procedures for
13 contacting the facility in which the resident resides about the
14 request for assistance, requesting immediate resolution, and
15 confirming with the caller that the issue has been addressed
16 satisfactorily within a period of time agreeable to the caller.
17 With the agreement of the caller, requests for assistance made
18 to the hotline shall not be treated as complaints by the
19 Department if they are not about (i) injuries that have already
20 occurred to a resident or (ii) a situation that is likely to
21 directly threaten the health, safety, or welfare of a resident,
22 even if the issue about which the individual is calling were to
23 be corrected immediately. A request for assistance about an
24 issue that has been the subject of 2 previous calls, by one or

1 more persons, within the past 12 months may be resolved by the
2 hotline, but shall also be treated as a complaint, unless the
3 caller chooses not to file a complaint. A facility is eligible
4 to have requests for assistance facilitated by the hotline, if
5 it has an independent family council that has existed for at
6 least 6 months and meets at least monthly, and if within the
7 past 12 months the council has confirmed in writing to the
8 Department that the facility has demonstrated its willingness
9 to resolve issues promptly without the necessity of filing a
10 complaint with the Department.

11 (210 ILCS 45/3-806 new)

12 Sec. 3-806. Death of nursing home resident form. The
13 Department shall assist each county coroner and medical
14 examiner in creating a form to be used by each nursing home and
15 hospital in the county to report the death of a nursing home
16 resident to the coroner or medical examiner.

17 (210 ILCS 45/3-808 new)

18 Sec. 3-808. Protocol for sexual assault victims; nursing
19 home. The Department shall develop a protocol for the
20 identification, care, and treatment of residents who have been
21 sexually assaulted in a nursing home or elsewhere. The protocol
22 shall include appropriate care and treatment for residents who
23 have Alzheimer's disease or another dementia or who have a
24 mental illness.

1 Section 60. The Illinois Public Aid Code is amended by
2 changing Section 5-5.12 and by adding Sections 5-5e and 5-27 as
3 follows:

4 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

5 Sec. 5-5.12. Pharmacy payments.

6 (a) Every request submitted by a pharmacy for reimbursement
7 under this Article for prescription drugs provided to a
8 recipient of aid under this Article shall include the name of
9 the prescriber or an acceptable identification number as
10 established by the Department.

11 (b) Pharmacies providing prescription drugs under this
12 Article shall be reimbursed at a rate which shall include a
13 professional dispensing fee as determined by the Illinois
14 Department, plus the current acquisition cost of the
15 prescription drug dispensed. The Illinois Department shall
16 update its information on the acquisition costs of all
17 prescription drugs no less frequently than every 30 days.
18 However, the Illinois Department may set the rate of
19 reimbursement for the acquisition cost, by rule, at a
20 percentage of the current average wholesale acquisition cost.

21 (c) (Blank).

22 (d) The Department shall not impose requirements for prior
23 approval based on a preferred drug list for anti-retroviral,
24 anti-hemophilic factor concentrates, or any atypical

1 antipsychotics, conventional antipsychotics, or
2 anticonvulsants used for the treatment of serious mental
3 illnesses until 30 days after it has conducted a study of the
4 impact of such requirements on patient care and submitted a
5 report to the Speaker of the House of Representatives and the
6 President of the Senate.

7 (e) The Department shall cooperate with the Illinois
8 Department of Public Health in identifying psychotropic
9 medications which, when given to a nursing home resident in a
10 particular form, manner, duration, or frequency (including "as
11 needed") in excess of a specific dosage or in conjunction with
12 other psychotropic medications, would constitute a chemical
13 restraint or an "unnecessary drug" as defined in Section
14 2-106.1 of the Nursing Home Care Act or Titles XVIII and XIX of
15 the Social Security Act, and shall implement regulations that
16 forbid the use of chemical restraints and the administration of
17 unnecessary drugs to nursing home residents. The Department
18 shall require prior approval for any such medication prescribed
19 to a nursing home resident.

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

21 (305 ILCS 5/5-5e new)

22 Sec. 5-5e. Long-term care facilities; healthy and stable
23 workforce initiative.

24 (a) In order to attract and retain a stable, qualified, and
25 healthy workforce, beginning January 1, 2010, the Department of

1 Healthcare and Family Services may reimburse an individual
2 skilled nursing facility, intermediate care facility, or Class
3 I Institution for Mental Diseases providing long-term care
4 services for spending incurred to provide improved wages and
5 benefits to its employees serving the vulnerable populations
6 residing in the facility. The reimbursement shall be based on
7 patient days reported in the facility's most recent cost
8 report. Subject to available appropriations, this
9 reimbursement shall be made according to the following
10 criteria:

11 (1) The Department shall reimburse the facility to
12 compensate for spending on improved wages and benefits for
13 its eligible employees. Eligible employees include
14 employees engaged in direct care work.

15 (2) In order to qualify for reimbursement under this
16 Section, a facility must provide to the Department, before
17 January 1 of each year, documentation of a written, legally
18 binding commitment to increase spending for the purpose of
19 providing improved wages and benefits to its eligible
20 employees during the next year. The commitment must be
21 binding as to both existing and future staff. The
22 commitment must include a method of enforcing the
23 commitment that is available to the employees or their
24 representative and is expeditious, uses a neutral
25 decision-maker, and is economical for the employees. The
26 Department must also receive documentation of the

1 facility's provision of written notice of the commitment
2 and the availability of the enforcement mechanism to the
3 employees or their representative.

4 (3) Reimbursement shall be based on the amount of
5 increased spending incurred for improving wages and
6 benefits by the facility that exceeds the spending reported
7 in the cost report currently used by the Department.
8 Reimbursement shall be calculated as follows: the per diem
9 equivalent of the quarterly difference between the cost to
10 provide improved wages and benefits for covered eligible
11 employees as identified in the legally binding commitment
12 and the previous period cost of wages and benefits as
13 reported in the cost report currently used by the
14 Department, subject to the limitations identified in
15 paragraph (2) of this subsection. In no event shall the per
16 diem increase be in excess of \$5.00 for any 12 month
17 period.

18 (4) Any individual skilled nursing facility,
19 intermediate care facility, or Class I Institution for
20 Mental Diseases is eligible to receive reimbursement under
21 this Section. A facility's eligibility to receive
22 reimbursement shall continue as long as the facility
23 maintains eligibility under paragraph (2) of this
24 subsection and the reimbursement program continues to
25 exist.

26 (b) Reimbursement under this Section is subject to audit by

1 the Department and shall be reduced or eliminated in the case
2 of any facility that does not honor its commitment to increase
3 spending to improve the wages and benefits of its employees or
4 that decreases such spending.

5 (c) Nothing in this Section shall be construed to interfere
6 with reimbursements to facilities based on the Minimum Data Set
7 (MDS) funding methodology.

8 (d) As used in this Section, "Class I Institution for
9 Mental Diseases" has the meaning ascribed to that term in the
10 Social Security Act and the term "Class I IMD" in 89 Ill.
11 Admin. Code 145.30.

12 (305 ILCS 5/5-27 new)

13 Sec. 5-27. Personal needs allowance. The minimum monthly
14 personal needs allowance, as authorized under Section 1902(q)
15 of Title XIX of the Social Security Act, for a person who is an
16 inpatient at an institution or facility for which payments are
17 made under this Article throughout a month, and who is
18 determined to be eligible for medical assistance under this
19 Article, is \$50.

20 (305 ILCS 5/5-5b rep.)

21 Section 65. The Illinois Public Aid Code is amended by
22 repealing Section 5-5b.

23 Section 70. The Mental Health and Developmental

1 Disabilities Code is amended by changing Sections 1-114, 1-123,
2 3-200, and 3-902 as follows:

3 (405 ILCS 5/1-114) (from Ch. 91 1/2, par. 1-114)

4 Sec. 1-114. "Mental health facility" means any licensed
5 private hospital, institution, or facility or section thereof,
6 and any facility, or section thereof, operated by the State or
7 a political subdivision thereof for the treatment of persons
8 with mental illness and includes all hospitals, institutions,
9 clinics, evaluation facilities, and mental health centers
10 which provide treatment for such persons, and any facility or
11 section thereof, licensed under the Nursing Home Care Act, in
12 which the majority of the residents have a diagnosis of mental
13 illness.

14 (Source: P.A. 88-380.)

15 (405 ILCS 5/1-123) (from Ch. 91 1/2, par. 1-123)

16 Sec. 1-123. "Recipient of services" or "recipient" means a
17 person who has received or is receiving treatment or
18 habilitation, including anyone residing in a facility licensed
19 under the Nursing Home Care Act and subject to this Code,
20 provided that the individual has a diagnosis of a mental
21 illness.

22 (Source: P.A. 80-1414.)

23 (405 ILCS 5/3-200) (from Ch. 91 1/2, par. 3-200)

1 Sec. 3-200. (a) A person may be admitted as an inpatient to
2 a mental health facility as defined in Section 1-114 of this
3 Code for treatment of mental illness only as provided in this
4 Chapter, except that a person may be transferred by the
5 Department of Corrections pursuant to the Unified Code of
6 Corrections. A person transferred by the Department of
7 Corrections in this manner may be released only as provided in
8 the Unified Code of Corrections.

9 (b) No person who is diagnosed as mentally retarded or a
10 person with a developmental disability may be admitted or
11 transferred to a Department mental health facility or, any
12 portion thereof, except as provided in this Chapter. However,
13 the evaluation and placement of such persons shall be governed
14 by Article II of Chapter 4 of this Code.

15 (Source: P.A. 88-380.)

16 (405 ILCS 5/3-902) (from Ch. 91 1/2, par. 3-902)

17 Sec. 3-902. Director initiated discharge.

18 (a) The facility director may at any time discharge an
19 informal, voluntary, or minor recipient who is clinically
20 suitable for discharge.

21 (b) The facility director shall discharge a recipient
22 admitted upon court order under this Chapter or any prior
23 statute where he is no longer subject to involuntary admission.
24 If the facility director believes that continuing treatment is
25 advisable for such recipient, he shall inform the recipient of

1 his right to remain as an informal or voluntary recipient.

2 (c) When a facility director discharges or changes the
3 status of a recipient pursuant to this Section he shall
4 promptly notify the clerk of the court which entered the
5 original order of the discharge or change in status. Upon
6 receipt of such notice, the clerk of the court shall note the
7 action taken in the court record. If the person being
8 discharged is a person under legal disability, the facility
9 director shall also submit a certificate regarding his legal
10 status without disability pursuant to Section 3-907.

11 (d) When the facility director determines that discharge is
12 appropriate for a recipient pursuant to this Section or Section
13 3-403 he or she shall notify the state's attorney of the county
14 in which the recipient resided immediately prior to his
15 admission to a mental health facility and the state's attorney
16 of the county where the last petition for commitment was filed
17 at least 48 hours prior to the discharge when either state's
18 attorney has requested in writing such notification on that
19 individual recipient or when the facility director regards a
20 recipient as a continuing threat to the peace and safety of the
21 community. Upon receipt of such notice, the state's attorney
22 may take any court action or notify such peace officers that he
23 deems appropriate. When the facility director determines that
24 discharge is appropriate for a recipient pursuant to this
25 Section or Section 3-403, he or she shall notify the person
26 whose petition pursuant to Section 3-701 resulted in the

1 current hospitalization of the recipient's discharge at least
2 48 hours prior to the discharge, if the petitioner has
3 requested in writing such notification on that individual
4 recipient.

5 (e) The facility director may grant a temporary release to
6 a recipient whose condition is not considered appropriate for
7 discharge where such release is considered to be clinically
8 appropriate, provided that the release does not endanger the
9 public safety.

10 (f) No person may be discharged from a Department mental
11 health facility to any long term care facility classified as an
12 institution for mental diseases under Title XIX of the Social
13 Security Act and any implementing regulations, unless the cost
14 to the State of providing care in the long-term care facility,
15 considering available federal matching funds, would be less
16 than the cost of providing mental health services in a
17 community setting, or the person refuses to receive mental
18 health services in a community setting. Nothing in this
19 subsection shall be deemed to prevent the transfer of any
20 person from one Department mental health facility to another
21 Department mental health facility.

22 (Source: P.A. 96-570, eff. 1-1-10.)

23 Section 75. The Probate Act of 1975 is amended by changing
24 Section 11a-14.1 as follows:

1 (755 ILCS 5/11a-14.1) (from Ch. 110 1/2, par. 11a-14.1)

2 Sec. 11a-14.1. Residential placement.

3 (a) Residential placement. No guardian appointed under
4 this Article, except for duly appointed Public Guardians and
5 the Office of State Guardian, shall have the power, unless
6 specified by court order, to place his ward in a residential
7 facility. The guardianship order may specify the conditions on
8 which the guardian may admit the ward to a residential facility
9 without further court order. In making residential placement
10 decisions, the guardian shall make decisions in conformity with
11 the preferences of the ward unless the guardian is reasonably
12 certain that the decisions will result in substantial harm to
13 the ward or to the ward's estate. When the preferences of the
14 ward cannot be ascertained or where they will result in
15 substantial harm to the ward or to the ward's estate, the
16 guardian shall make decisions with respect to the ward's
17 placement which are in the best interests of the ward. The
18 guardian shall not remove the ward from his or her home or
19 separate the ward from family and friends unless such removal
20 is necessary to prevent substantial harm to the ward or to the
21 ward's estate. The guardian shall have a duty to investigate
22 the availability of reasonable residential alternatives. The
23 guardian shall monitor the placement of the ward on an on-going
24 basis to ensure its continued appropriateness, and shall pursue
25 appropriate alternatives as needed.

26 (b) No guardian appointed under this Article shall have the

1 power to place his or her ward in a mental health facility, as
2 defined in Section 1-114 of the Mental Health and Developmental
3 Disabilities Code, except pursuant to the provisions set forth
4 in Chapter III of that Code. Neither a Public Guardian nor the
5 Office of State Guardian shall place any ward in a mental
6 health facility licensed under the Nursing Home Care Act unless
7 the guardian has determined that such facility is in compliance
8 with the Mental Health and Developmental Disabilities Code.
9 Such determination shall be in writing and included in the
10 periodic report provided to the court pursuant to subsection
11 (b) of Section 11a-17 of this Act.

12 (Source: P.A. 90-250, eff. 7-29-97.)

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."