

AN ACT concerning business.

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

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

(30 ILCS 105/5.650 new)

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

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

(210 ILCS 55/Act title)

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

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

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

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

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

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

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

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

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

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

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

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

(210 ILCS 55/2.03a new)

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

(210 ILCS 55/2.08 new)

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

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

(210 ILCS 55/2.09 new)

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

(210 ILCS 55/2.10 new)

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

(210 ILCS 55/2.11 new)

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

(210 ILCS 55/2.12 new)

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

(210 ILCS 55/3.3 new)

Sec. 3.3. Home services agency; license required. On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home services agency, or advertise himself or herself as a home services agency or as offering services that would be included in the definition of home services or a home services agency, without a license issued by the Department. The Department shall adopt rules as necessary to protect the health, safety, and well-being of clients through licensure of home services agencies.

(210 ILCS 55/3.7 new)

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

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

Sec. 4. Types of licenses.

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

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

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

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

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

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

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

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

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

(210 ILCS 55/6.3 new)

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

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

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

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

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

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

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

(210 ILCS 55/6.7 new)

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

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

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

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

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

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

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

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

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

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

voluntary home health agencies, one shall represent for-profit home health agencies, one shall represent private not-for-profit home health agencies, one shall represent institution-based home health agencies, and one shall represent home health agencies operated by local health departments. Four of the appointed members shall represent the home services agency profession. Four of the appointed members shall represent the general public in the following categories: one individual who is a consumer of home health services or a family member of a consumer of home health services; one individual who is a consumer of home services or a family member of a consumer of home services; one individual who is a home services worker; and one individual who is a representative of an organization that advocates for consumers. One member shall be a practicing Illinois licensed physician; and one member shall be an Illinois registered professional nurse with home health agency experience. The recommendations of professional, ~~and~~ home health industry, and home services industry organizations may be considered in selecting individuals for appointment to the Home Health and Home Services Advisory Committee.

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

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

two at the end of the third year.

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

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

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

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

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

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

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

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

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

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

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

Sec. 9.01. The Department may conduct any such

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Director shall consider the following factors:

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

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

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

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

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

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

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

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

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

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

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

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

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

(210 ILCS 55/10.05 new)

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

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

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

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

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

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

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

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

(210 ILCS 62/15)

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

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

(2) a hospital licensed under the Hospital Licensing

Act or the University of Illinois Hospital Act; and

(3) the office of a physician.

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

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

(225 ILCS 46/15)

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

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

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

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

"Health care employer" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

(xii) the University of Illinois Hospital, Chicago;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(405 ILCS 30/4.3)

Sec. 4.3. Family Support Services Voucher Pilot Program.

(a) In this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Out-of-home medical services.

(2) Medical, therapeutic, or developmental evaluations.

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

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

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

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

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

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

Public Act 094-0379

SB0159 Enrolled

LRB094 03627 DRJ 38994 b

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

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

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