



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1400

Introduced 2/9/2017, by Sen. John G. Mulroe

SYNOPSIS AS INTRODUCED:

See Index

Amends the Health Care Worker Background Check Act. Requires the Department of Public Health to establish and maintain the Health Care Worker Registry of specified health care workers. Makes corresponding changes in the Nursing Home Care Act, MC/DD Act, and ID/DD Community Care Act, including deleting language requiring the Department to establish and maintain a health care worker registry in each of those Acts. Provides that the information contained in the Health Care Worker Registry shall include information from the registries established under the Nursing Home Care Act, MC/DD Act, and the ID/DD Community Care Act. Specifies that certain prohibitions on health care employers and long-term care facilities retaining individuals applies whether the individual is paid or is a volunteer. Adds specified offenses to a provision that prohibits health care employers and long-term care facilities from hiring a person who has been convicted of certain offenses. Makes other changes. Amends the Department of Human Services Act, Mental Health and Developmental Disabilities Administrative Act, and Mental Health and Developmental Disabilities Confidentiality Act to make conforming and other changes. Effective immediately.

LRB100 08265 MJP 18366 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Department of Human Services Act is amended
5 by changing Section 1-17 as follows:

6 (20 ILCS 1305/1-17)

7 Sec. 1-17. Inspector General.

8 (a) Nature and purpose. It is the express intent of the
9 General Assembly to ensure the health, safety, and financial
10 condition of individuals receiving services in this State due
11 to mental illness, developmental disability, or both by
12 protecting those persons from acts of abuse, neglect, or both
13 by service providers. To that end, the Office of the Inspector
14 General for the Department of Human Services is created to
15 investigate and report upon allegations of the abuse, neglect,
16 or financial exploitation of individuals receiving services
17 within mental health facilities, developmental disabilities
18 facilities, and community agencies operated, licensed, funded
19 or certified by the Department of Human Services, but not
20 licensed or certified by any other State agency.

21 (b) Definitions. The following definitions apply to this
22 Section:

23 "Adult student with a disability" means an adult student,

1 age 18 through 21, inclusive, with an Individual Education
2 Program, other than a resident of a facility licensed by the
3 Department of Children and Family Services in accordance with
4 the Child Care Act of 1969. For purposes of this definition,
5 "through age 21, inclusive", means through the day before the
6 student's 22nd birthday.

7 "Agency" or "community agency" means (i) a community agency
8 licensed, funded, or certified by the Department, but not
9 licensed or certified by any other human services agency of the
10 State, to provide mental health service or developmental
11 disabilities service, or (ii) a program licensed, funded, or
12 certified by the Department, but not licensed or certified by
13 any other human services agency of the State, to provide mental
14 health service or developmental disabilities service.

15 "Aggravating circumstance" means a factor that is
16 attendant to a finding and that tends to compound or increase
17 the culpability of the accused.

18 "Allegation" means an assertion, complaint, suspicion, or
19 incident involving any of the following conduct by an employee,
20 facility, or agency against an individual or individuals:
21 mental abuse, physical abuse, sexual abuse, neglect, or
22 financial exploitation.

23 "Day" means working day, unless otherwise specified.

24 "Deflection" means a situation in which an individual is
25 presented for admission to a facility or agency, and the
26 facility staff or agency staff do not admit the individual.

1 "Deflection" includes triage, redirection, and denial of
2 admission.

3 "Department" means the Department of Human Services.

4 "Developmental disability" means "developmental
5 disability" as defined in the Mental Health and Developmental
6 Disabilities Code.

7 "Egregious neglect" means a finding of neglect as
8 determined by the Inspector General that (i) represents a gross
9 failure to adequately provide for, or a callused indifference
10 to, the health, safety, or medical needs of an individual and
11 (ii) results in an individual's death or other serious
12 deterioration of an individual's physical condition or mental
13 condition.

14 "Employee" means any person who provides services at the
15 facility or agency on-site or off-site. The service
16 relationship can be with the individual or with the facility or
17 agency. Also, "employee" includes any employee or contractual
18 agent of the Department of Human Services or the community
19 agency involved in providing or monitoring or administering
20 mental health or developmental disability services. This
21 includes but is not limited to: owners, operators, payroll
22 personnel, contractors, subcontractors, and volunteers.

23 "Facility" or "State-operated facility" means a mental
24 health facility or developmental disabilities facility
25 operated by the Department.

26 "Financial exploitation" means taking unjust advantage of

1 an individual's assets, property, or financial resources
2 through deception, intimidation, or conversion for the
3 employee's, facility's, or agency's own advantage or benefit.

4 "Finding" means the Office of Inspector General's
5 determination regarding whether an allegation is
6 substantiated, unsubstantiated, or unfounded.

7 "Health Care Worker Registry" ~~"Health care worker~~
8 ~~registry"~~ or "Registry" ~~"registry"~~ means the Health Care Worker
9 Registry ~~health care worker registry~~ under ~~created by~~ the
10 Health Care Worker Background Check Act ~~Nursing Home Care Act~~.

11 "Individual" means any person receiving mental health
12 service, developmental disabilities service, or both from a
13 facility or agency, while either on-site or off-site.

14 "Mental abuse" means the use of demeaning, intimidating, or
15 threatening words, signs, gestures, or other actions by an
16 employee about an individual and in the presence of an
17 individual or individuals that results in emotional distress or
18 maladaptive behavior, or could have resulted in emotional
19 distress or maladaptive behavior, for any individual present.

20 "Mental illness" means "mental illness" as defined in the
21 Mental Health and Developmental Disabilities Code.

22 "Mentally ill" means having a mental illness.

23 "Mitigating circumstance" means a condition that (i) is
24 attendant to a finding, (ii) does not excuse or justify the
25 conduct in question, but (iii) may be considered in evaluating
26 the severity of the conduct, the culpability of the accused, or

1 both the severity of the conduct and the culpability of the
2 accused.

3 "Neglect" means an employee's, agency's, or facility's
4 failure to provide adequate medical care, personal care, or
5 maintenance and that, as a consequence, (i) causes an
6 individual pain, injury, or emotional distress, (ii) results in
7 either an individual's maladaptive behavior or the
8 deterioration of an individual's physical condition or mental
9 condition, or (iii) places the individual's health or safety at
10 substantial risk.

11 "Person with a developmental disability" means a person
12 having a developmental disability.

13 "Physical abuse" means an employee's non-accidental and
14 inappropriate contact with an individual that causes bodily
15 harm. "Physical abuse" includes actions that cause bodily harm
16 as a result of an employee directing an individual or person to
17 physically abuse another individual.

18 "Recommendation" means an admonition, separate from a
19 finding, that requires action by the facility, agency, or
20 Department to correct a systemic issue, problem, or deficiency
21 identified during an investigation.

22 "Required reporter" means any employee who suspects,
23 witnesses, or is informed of an allegation of any one or more
24 of the following: mental abuse, physical abuse, sexual abuse,
25 neglect, or financial exploitation.

26 "Secretary" means the Chief Administrative Officer of the

1 Department.

2 "Sexual abuse" means any sexual contact or intimate
3 physical contact between an employee and an individual,
4 including an employee's coercion or encouragement of an
5 individual to engage in sexual behavior that results in sexual
6 contact, intimate physical contact, sexual behavior, or
7 intimate physical behavior. Sexual abuse also includes (i) an
8 employee's actions that result in the sending or showing of
9 sexually explicit images to an individual via computer,
10 cellular phone, electronic mail, portable electronic device,
11 or other media with or without contact with the individual or
12 (ii) an employee's posting of sexually explicit images of an
13 individual online or elsewhere whether or not there is contact
14 with the individual.

15 "Sexually explicit images" includes, but is not limited to,
16 any material which depicts nudity, sexual conduct, or
17 sado-masochistic abuse, or which contains explicit and
18 detailed verbal descriptions or narrative accounts of sexual
19 excitement, sexual conduct, or sado-masochistic abuse.

20 "Substantiated" means there is a preponderance of the
21 evidence to support the allegation.

22 "Unfounded" means there is no credible evidence to support
23 the allegation.

24 "Unsubstantiated" means there is credible evidence, but
25 less than a preponderance of evidence to support the
26 allegation.

1 (c) Appointment. The Governor shall appoint, and the Senate
2 shall confirm, an Inspector General. The Inspector General
3 shall be appointed for a term of 4 years and shall function
4 within the Department of Human Services and report to the
5 Secretary and the Governor.

6 (d) Operation and appropriation. The Inspector General
7 shall function independently within the Department with
8 respect to the operations of the Office, including the
9 performance of investigations and issuance of findings and
10 recommendations. The appropriation for the Office of Inspector
11 General shall be separate from the overall appropriation for
12 the Department.

13 (e) Powers and duties. The Inspector General shall
14 investigate reports of suspected mental abuse, physical abuse,
15 sexual abuse, neglect, or financial exploitation of
16 individuals in any mental health or developmental disabilities
17 facility or agency and shall have authority to take immediate
18 action to prevent any one or more of the following from
19 happening to individuals under its jurisdiction: mental abuse,
20 physical abuse, sexual abuse, neglect, or financial
21 exploitation. Upon written request of an agency of this State,
22 the Inspector General may assist another agency of the State in
23 investigating reports of the abuse, neglect, or abuse and
24 neglect of persons with mental illness, persons with
25 developmental disabilities, or persons with both. To comply
26 with the requirements of subsection (k) of this Section, the

1 Inspector General shall also review all reportable deaths for
2 which there is no allegation of abuse or neglect. Nothing in
3 this Section shall preempt any duties of the Medical Review
4 Board set forth in the Mental Health and Developmental
5 Disabilities Code. The Inspector General shall have no
6 authority to investigate alleged violations of the State
7 Officials and Employees Ethics Act. Allegations of misconduct
8 under the State Officials and Employees Ethics Act shall be
9 referred to the Office of the Governor's Executive Inspector
10 General for investigation.

11 (f) Limitations. The Inspector General shall not conduct an
12 investigation within an agency or facility if that
13 investigation would be redundant to or interfere with an
14 investigation conducted by another State agency. The Inspector
15 General shall have no supervision over, or involvement in, the
16 routine programmatic, licensing, funding, or certification
17 operations of the Department. Nothing in this subsection limits
18 investigations by the Department that may otherwise be required
19 by law or that may be necessary in the Department's capacity as
20 central administrative authority responsible for the operation
21 of the State's mental health and developmental disabilities
22 facilities.

23 (g) Rulemaking authority. The Inspector General shall
24 promulgate rules establishing minimum requirements for
25 reporting allegations as well as for initiating, conducting,
26 and completing investigations based upon the nature of the

1 allegation or allegations. The rules shall clearly establish
2 that if 2 or more State agencies could investigate an
3 allegation, the Inspector General shall not conduct an
4 investigation that would be redundant to, or interfere with, an
5 investigation conducted by another State agency. The rules
6 shall further clarify the method and circumstances under which
7 the Office of Inspector General may interact with the
8 licensing, funding, or certification units of the Department in
9 preventing further occurrences of mental abuse, physical
10 abuse, sexual abuse, neglect, egregious neglect, and financial
11 exploitation.

12 (h) Training programs. The Inspector General shall (i)
13 establish a comprehensive program to ensure that every person
14 authorized to conduct investigations receives ongoing training
15 relative to investigation techniques, communication skills,
16 and the appropriate means of interacting with persons receiving
17 treatment for mental illness, developmental disability, or
18 both mental illness and developmental disability, and (ii)
19 establish and conduct periodic training programs for facility
20 and agency employees concerning the prevention and reporting of
21 any one or more of the following: mental abuse, physical abuse,
22 sexual abuse, neglect, egregious neglect, or financial
23 exploitation. Nothing in this Section shall be deemed to
24 prevent the Office of Inspector General from conducting any
25 other training as determined by the Inspector General to be
26 necessary or helpful.

1 (i) Duty to cooperate.

2 (1) The Inspector General shall at all times be granted
3 access to any facility or agency for the purpose of
4 investigating any allegation, conducting unannounced site
5 visits, monitoring compliance with a written response, or
6 completing any other statutorily assigned duty. The
7 Inspector General shall conduct unannounced site visits to
8 each facility at least annually for the purpose of
9 reviewing and making recommendations on systemic issues
10 relative to preventing, reporting, investigating, and
11 responding to all of the following: mental abuse, physical
12 abuse, sexual abuse, neglect, egregious neglect, or
13 financial exploitation.

14 (2) Any employee who fails to cooperate with an Office
15 of the Inspector General investigation is in violation of
16 this Act. Failure to cooperate with an investigation
17 includes, but is not limited to, any one or more of the
18 following: (i) creating and transmitting a false report to
19 the Office of the Inspector General hotline, (ii) providing
20 false information to an Office of the Inspector General
21 Investigator during an investigation, (iii) colluding with
22 other employees to cover up evidence, (iv) colluding with
23 other employees to provide false information to an Office
24 of the Inspector General investigator, (v) destroying
25 evidence, (vi) withholding evidence, or (vii) otherwise
26 obstructing an Office of the Inspector General

1 investigation. Additionally, any employee who, during an
2 unannounced site visit or written response compliance
3 check, fails to cooperate with requests from the Office of
4 the Inspector General is in violation of this Act.

5 (j) Subpoena powers. The Inspector General shall have the
6 power to subpoena witnesses and compel the production of all
7 documents and physical evidence relating to his or her
8 investigations and any hearings authorized by this Act. This
9 subpoena power shall not extend to persons or documents of a
10 labor organization or its representatives insofar as the
11 persons are acting in a representative capacity to an employee
12 whose conduct is the subject of an investigation or the
13 documents relate to that representation. Any person who
14 otherwise fails to respond to a subpoena or who knowingly
15 provides false information to the Office of the Inspector
16 General by subpoena during an investigation is guilty of a
17 Class A misdemeanor.

18 (k) Reporting allegations and deaths.

19 (1) Allegations. If an employee witnesses, is told of,
20 or has reason to believe an incident of mental abuse,
21 physical abuse, sexual abuse, neglect, or financial
22 exploitation has occurred, the employee, agency, or
23 facility shall report the allegation by phone to the Office
24 of the Inspector General hotline according to the agency's
25 or facility's procedures, but in no event later than 4
26 hours after the initial discovery of the incident,

1 allegation, or suspicion of any one or more of the
2 following: mental abuse, physical abuse, sexual abuse,
3 neglect, or financial exploitation. A required reporter as
4 defined in subsection (b) of this Section who knowingly or
5 intentionally fails to comply with these reporting
6 requirements is guilty of a Class A misdemeanor.

7 (2) Deaths. Absent an allegation, a required reporter
8 shall, within 24 hours after initial discovery, report by
9 phone to the Office of the Inspector General hotline each
10 of the following:

11 (i) Any death of an individual occurring within 14
12 calendar days after discharge or transfer of the
13 individual from a residential program or facility.

14 (ii) Any death of an individual occurring within 24
15 hours after deflection from a residential program or
16 facility.

17 (iii) Any other death of an individual occurring at
18 an agency or facility or at any Department-funded site.

19 (3) Retaliation. It is a violation of this Act for any
20 employee or administrator of an agency or facility to take
21 retaliatory action against an employee who acts in good
22 faith in conformance with his or her duties as a required
23 reporter.

24 (1) Reporting to law enforcement.

25 (1) Reporting criminal acts. Within 24 hours after
26 determining that there is credible evidence indicating

1 that a criminal act may have been committed or that special
2 expertise may be required in an investigation, the
3 Inspector General shall notify the Department of State
4 Police or other appropriate law enforcement authority, or
5 ensure that such notification is made. The Department of
6 State Police shall investigate any report from a
7 State-operated facility indicating a possible murder,
8 sexual assault, or other felony by an employee. All
9 investigations conducted by the Inspector General shall be
10 conducted in a manner designed to ensure the preservation
11 of evidence for possible use in a criminal prosecution.

12 (2) Reporting allegations of adult students with
13 disabilities. Upon receipt of a reportable allegation
14 regarding an adult student with a disability, the
15 Department's Office of the Inspector General shall
16 determine whether the allegation meets the criteria for the
17 Domestic Abuse Program under the Abuse of Adults with
18 Disabilities Intervention Act. If the allegation is
19 reportable to that program, the Office of the Inspector
20 General shall initiate an investigation. If the allegation
21 is not reportable to the Domestic Abuse Program, the Office
22 of the Inspector General shall make an expeditious referral
23 to the respective law enforcement entity. If the alleged
24 victim is already receiving services from the Department,
25 the Office of the Inspector General shall also make a
26 referral to the respective Department of Human Services'

1 Division or Bureau.

2 (m) Investigative reports. Upon completion of an
3 investigation, the Office of Inspector General shall issue an
4 investigative report identifying whether the allegations are
5 substantiated, unsubstantiated, or unfounded. Within 10
6 business days after the transmittal of a completed
7 investigative report substantiating an allegation, or if a
8 recommendation is made, the Inspector General shall provide the
9 investigative report on the case to the Secretary and to the
10 director of the facility or agency where any one or more of the
11 following occurred: mental abuse, physical abuse, sexual
12 abuse, neglect, egregious neglect, or financial exploitation.
13 In a substantiated case, the investigative report shall include
14 any mitigating or aggravating circumstances that were
15 identified during the investigation. If the case involves
16 substantiated neglect, the investigative report shall also
17 state whether egregious neglect was found. An investigative
18 report may also set forth recommendations. All investigative
19 reports prepared by the Office of the Inspector General shall
20 be considered confidential and shall not be released except as
21 provided by the law of this State or as required under
22 applicable federal law. Unsubstantiated and unfounded reports
23 shall not be disclosed except as allowed under Section 6 of the
24 Abused and Neglected Long Term Care Facility Residents
25 Reporting Act. Raw data used to compile the investigative
26 report shall not be subject to release unless required by law

1 or a court order. "Raw data used to compile the investigative
2 report" includes, but is not limited to, any one or more of the
3 following: the initial complaint, witness statements,
4 photographs, investigator's notes, police reports, or incident
5 reports. If the allegations are substantiated, the accused
6 shall be provided with a redacted copy of the investigative
7 report. Death reports where there was no allegation of abuse or
8 neglect shall only be released pursuant to applicable State or
9 federal law or a valid court order.

10 (n) Written responses and reconsideration requests.

11 (1) Written responses. Within 30 calendar days from
12 receipt of a substantiated investigative report or an
13 investigative report which contains recommendations,
14 absent a reconsideration request, the facility or agency
15 shall file a written response that addresses, in a concise
16 and reasoned manner, the actions taken to: (i) protect the
17 individual; (ii) prevent recurrences; and (iii) eliminate
18 the problems identified. The response shall include the
19 implementation and completion dates of such actions. If the
20 written response is not filed within the allotted 30
21 calendar day period, the Secretary shall determine the
22 appropriate corrective action to be taken.

23 (2) Reconsideration requests. The facility, agency,
24 victim or guardian, or the subject employee may request
25 that the Office of Inspector General reconsider or clarify
26 its finding based upon additional information.

1 (o) Disclosure of the finding by the Inspector General. The
2 Inspector General shall disclose the finding of an
3 investigation to the following persons: (i) the Governor, (ii)
4 the Secretary, (iii) the director of the facility or agency,
5 (iv) the alleged victims and their guardians, (v) the
6 complainant, and (vi) the accused. This information shall
7 include whether the allegations were deemed substantiated,
8 unsubstantiated, or unfounded.

9 (p) Secretary review. Upon review of the Inspector
10 General's investigative report and any agency's or facility's
11 written response, the Secretary shall accept or reject the
12 written response and notify the Inspector General of that
13 determination. The Secretary may further direct that other
14 administrative action be taken, including, but not limited to,
15 any one or more of the following: (i) additional site visits,
16 (ii) training, (iii) provision of technical assistance
17 relative to administrative needs, licensure or certification,
18 or (iv) the imposition of appropriate sanctions.

19 (q) Action by facility or agency. Within 30 days of the
20 date the Secretary approves the written response or directs
21 that further administrative action be taken, the facility or
22 agency shall provide an implementation report to the Inspector
23 General that provides the status of the action taken. The
24 facility or agency shall be allowed an additional 30 days to
25 send notice of completion of the action or to send an updated
26 implementation report. If the action has not been completed

1 within the additional 30 day period, the facility or agency
2 shall send updated implementation reports every 60 days until
3 completion. The Inspector General shall conduct a review of any
4 implementation plan that takes more than 120 days after
5 approval to complete, and shall monitor compliance through a
6 random review of approved written responses, which may include,
7 but are not limited to: (i) site visits, (ii) telephone
8 contact, and (iii) requests for additional documentation
9 evidencing compliance.

10 (r) Sanctions. Sanctions, if imposed by the Secretary under
11 Subdivision (p)(iv) of this Section, shall be designed to
12 prevent further acts of mental abuse, physical abuse, sexual
13 abuse, neglect, egregious neglect, or financial exploitation
14 or some combination of one or more of those acts at a facility
15 or agency, and may include any one or more of the following:

16 (1) Appointment of on-site monitors.

17 (2) Transfer or relocation of an individual or
18 individuals.

19 (3) Closure of units.

20 (4) Termination of any one or more of the following:

21 (i) Department licensing, (ii) funding, or (iii)
22 certification.

23 The Inspector General may seek the assistance of the
24 Illinois Attorney General or the office of any State's Attorney
25 in implementing sanctions.

26 (s) Health Care Worker Registry ~~care worker registry~~.

1 (1) Reporting to the Registry ~~registry~~. The Inspector
2 General shall report to the Department of Public Health's
3 Health Care Worker Registry ~~health care worker registry~~, a
4 public registry, the identity and finding of each employee
5 of a facility or agency against whom there is a final
6 investigative report containing a substantiated allegation
7 of physical or sexual abuse, financial exploitation, or
8 egregious neglect of an individual.

9 (2) Notice to employee. Prior to reporting the name of
10 an employee, the employee shall be notified of the
11 Department's obligation to report and shall be granted an
12 opportunity to request an administrative hearing, the sole
13 purpose of which is to determine if the substantiated
14 finding warrants reporting to the Registry ~~registry~~.
15 Notice to the employee shall contain a clear and concise
16 statement of the grounds on which the report to the
17 Registry ~~registry~~ is based, offer the employee an
18 opportunity for a hearing, and identify the process for
19 requesting such a hearing. Notice is sufficient if provided
20 by certified mail to the employee's last known address. If
21 the employee fails to request a hearing within 30 days from
22 the date of the notice, the Inspector General shall report
23 the name of the employee to the Registry ~~registry~~. Nothing
24 in this subdivision (s)(2) shall diminish or impair the
25 rights of a person who is a member of a collective
26 bargaining unit under the Illinois Public Labor Relations

1 Act or under any other federal labor statute.

2 (3) Registry hearings. If the employee requests an
3 administrative hearing, the employee shall be granted an
4 opportunity to appear before an administrative law judge to
5 present reasons why the employee's name should not be
6 reported to the Registry ~~registry~~. The Department shall
7 bear the burden of presenting evidence that establishes, by
8 a preponderance of the evidence, that the substantiated
9 finding warrants reporting to the Registry ~~registry~~. After
10 considering all the evidence presented, the administrative
11 law judge shall make a recommendation to the Secretary as
12 to whether the substantiated finding warrants reporting
13 the name of the employee to the Registry ~~registry~~. The
14 Secretary shall render the final decision. The Department
15 and the employee shall have the right to request that the
16 administrative law judge consider a stipulated disposition
17 of these proceedings.

18 (4) Testimony at Registry ~~registry~~ hearings. A person
19 who makes a report or who investigates a report under this
20 Act shall testify fully in any judicial proceeding
21 resulting from such a report, as to any evidence of abuse
22 or neglect, or the cause thereof. No evidence shall be
23 excluded by reason of any common law or statutory privilege
24 relating to communications between the alleged perpetrator
25 of abuse or neglect, or the individual alleged as the
26 victim in the report, and the person making or

1 investigating the report. Testimony at hearings is exempt
2 from the confidentiality requirements of subsection (f) of
3 Section 10 of the Mental Health and Developmental
4 Disabilities Confidentiality Act.

5 (5) Employee's rights to collateral action. No
6 reporting to the Registry ~~registry~~ shall occur and no
7 hearing shall be set or proceed if an employee notifies the
8 Inspector General in writing, including any supporting
9 documentation, that he or she is formally contesting an
10 adverse employment action resulting from a substantiated
11 finding by complaint filed with the Illinois Civil Service
12 Commission, or which otherwise seeks to enforce the
13 employee's rights pursuant to any applicable collective
14 bargaining agreement. If an action taken by an employer
15 against an employee as a result of a finding of physical
16 abuse, sexual abuse, or egregious neglect is overturned
17 through an action filed with the Illinois Civil Service
18 Commission or under any applicable collective bargaining
19 agreement and if that employee's name has already been sent
20 to the Registry ~~registry~~, the employee's name shall be
21 removed from the Registry ~~registry~~.

22 (6) Removal from Registry ~~registry~~. At any time after
23 the report to the Registry ~~registry~~, but no more than once
24 in any 12-month period, an employee may petition the
25 Department in writing to remove his or her name from the
26 Registry ~~registry~~. Upon receiving notice of such request,

1 the Inspector General shall conduct an investigation into
2 the petition. Upon receipt of such request, an
3 administrative hearing will be set by the Department. At
4 the hearing, the employee shall bear the burden of
5 presenting evidence that establishes, by a preponderance
6 of the evidence, that removal of the name from the Registry
7 ~~registry~~ is in the public interest. The parties may jointly
8 request that the administrative law judge consider a
9 stipulated disposition of these proceedings.

10 (t) Review of Administrative Decisions. The Department
11 shall preserve a record of all proceedings at any formal
12 hearing conducted by the Department involving Health Care
13 Worker Registry ~~health care worker registry~~ hearings. Final
14 administrative decisions of the Department are subject to
15 judicial review pursuant to provisions of the Administrative
16 Review Law.

17 (u) Quality Care Board. There is created, within the Office
18 of the Inspector General, a Quality Care Board to be composed
19 of 7 members appointed by the Governor with the advice and
20 consent of the Senate. One of the members shall be designated
21 as chairman by the Governor. Of the initial appointments made
22 by the Governor, 4 Board members shall each be appointed for a
23 term of 4 years and 3 members shall each be appointed for a
24 term of 2 years. Upon the expiration of each member's term, a
25 successor shall be appointed for a term of 4 years. In the case
26 of a vacancy in the office of any member, the Governor shall

1 appoint a successor for the remainder of the unexpired term.

2 Members appointed by the Governor shall be qualified by
3 professional knowledge or experience in the area of law,
4 investigatory techniques, or in the area of care of the
5 mentally ill or care of persons with developmental
6 disabilities. Two members appointed by the Governor shall be
7 persons with a disability or a parent of a person with a
8 disability. Members shall serve without compensation, but
9 shall be reimbursed for expenses incurred in connection with
10 the performance of their duties as members.

11 The Board shall meet quarterly, and may hold other meetings
12 on the call of the chairman. Four members shall constitute a
13 quorum allowing the Board to conduct its business. The Board
14 may adopt rules and regulations it deems necessary to govern
15 its own procedures.

16 The Board shall monitor and oversee the operations,
17 policies, and procedures of the Inspector General to ensure the
18 prompt and thorough investigation of allegations of neglect and
19 abuse. In fulfilling these responsibilities, the Board may do
20 the following:

21 (1) Provide independent, expert consultation to the
22 Inspector General on policies and protocols for
23 investigations of alleged abuse, neglect, or both abuse and
24 neglect.

25 (2) Review existing regulations relating to the
26 operation of facilities.

1 (3) Advise the Inspector General as to the content of
2 training activities authorized under this Section.

3 (4) Recommend policies concerning methods for
4 improving the intergovernmental relationships between the
5 Office of the Inspector General and other State or federal
6 offices.

7 (v) Annual report. The Inspector General shall provide to
8 the General Assembly and the Governor, no later than January 1
9 of each year, a summary of reports and investigations made
10 under this Act for the prior fiscal year with respect to
11 individuals receiving mental health or developmental
12 disabilities services. The report shall detail the imposition
13 of sanctions, if any, and the final disposition of any
14 corrective or administrative action directed by the Secretary.
15 The summaries shall not contain any confidential or identifying
16 information of any individual, but shall include objective data
17 identifying any trends in the number of reported allegations,
18 the timeliness of the Office of the Inspector General's
19 investigations, and their disposition, for each facility and
20 Department-wide, for the most recent 3-year time period. The
21 report shall also identify, by facility, the staff-to-patient
22 ratios taking account of direct care staff only. The report
23 shall also include detailed recommended administrative actions
24 and matters for consideration by the General Assembly.

25 (w) Program audit. The Auditor General shall conduct a
26 program audit of the Office of the Inspector General on an

1 as-needed basis, as determined by the Auditor General. The
2 audit shall specifically include the Inspector General's
3 compliance with the Act and effectiveness in investigating
4 reports of allegations occurring in any facility or agency. The
5 Auditor General shall conduct the program audit according to
6 the provisions of the Illinois State Auditing Act and shall
7 report its findings to the General Assembly no later than
8 January 1 following the audit period.

9 (x) Nothing in this Section shall be construed to mean that
10 an individual ~~a patient~~ is a victim of abuse or neglect because
11 of health care services appropriately provided or not provided
12 by health care professionals.

13 (y) Nothing in this Section shall require a facility,
14 including its employees, agents, medical staff members, and
15 health care professionals, to provide a service to an
16 individual ~~a patient~~ in contravention of that individual's
17 ~~patient's~~ stated or implied objection to the provision of that
18 service on the ground that that service conflicts with the
19 individual's ~~patient's~~ religious beliefs or practices, nor
20 shall the failure to provide a service to an individual ~~a~~
21 ~~patient~~ be considered abuse under this Section if the
22 individual ~~patient~~ has objected to the provision of that
23 service based on his or her religious beliefs or practices.

24 (Source: P.A. 98-49, eff. 7-1-13; 98-711, eff. 7-16-14; 99-143,
25 eff. 7-27-15; 99-323, eff. 8-7-15; 99-642, eff. 7-28-16.)

1 Section 10. The Mental Health and Developmental
2 Disabilities Administrative Act is amended by changing Section
3 7.3 as follows:

4 (20 ILCS 1705/7.3)

5 Sec. 7.3. Health Care Worker Registry ~~care worker registry~~;
6 finding of abuse or neglect. The Department shall require that
7 no facility, service agency, or support agency providing mental
8 health or developmental disability services that is licensed,
9 certified, operated, or funded by the Department shall employ a
10 person, in any capacity, who is identified by the Health Care
11 Worker Registry ~~health care worker registry~~ as having been
12 subject of a substantiated finding of abuse or neglect of a
13 service recipient. Any owner or operator of a community agency
14 who is identified by the Health Care Worker Registry ~~health~~
15 ~~care worker registry~~ as having been the subject of a
16 substantiated finding of abuse or neglect of a service
17 recipient is prohibited from any involvement in any capacity
18 with the provision of Department funded mental health or
19 developmental disability services. The Department shall
20 establish and maintain the rules that are necessary or
21 appropriate to effectuate the intent of this Section. The
22 provisions of this Section shall not apply to any facility,
23 service agency, or support agency licensed or certified by a
24 State agency other than the Department, unless operated by the
25 Department of Human Services.

1 (Source: P.A. 94-934, eff. 6-26-06; 95-545, eff. 8-28-07.)

2 Section 15. The Nursing Home Care Act is amended by
3 changing Sections 3-206 and 3-206.01 as follows:

4 (210 ILCS 45/3-206) (from Ch. 111 1/2, par. 4153-206)

5 Sec. 3-206. The Department shall prescribe a curriculum for
6 training nursing assistants, habilitation aides, and child
7 care aides.

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

18 (1) Be at least 16 years of age, of temperate habits
19 and good moral character, honest, reliable and
20 trustworthy.

21 (2) Be able to speak and understand the English
22 language or a language understood by a substantial
23 percentage of the facility's residents.

24 (3) Provide evidence of employment or occupation, if

1 any, and residence for 2 years prior to his present
2 employment.

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

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

21 The Department may accept comparable training in lieu
22 of the 120 hour course for student nurses, foreign nurses,
23 military personnel, or employes of the Department of Human
24 Services.

25 The facility shall develop and implement procedures,
26 which shall be approved by the Department, for an ongoing

1 review process, which shall take place within the facility,
2 for nursing assistants, habilitation aides, and child care
3 aides.

4 At the time of each regularly scheduled licensure
5 survey, or at the time of a complaint investigation, the
6 Department may require any nursing assistant, habilitation
7 aide, or child care aide to demonstrate, either through
8 written examination or action, or both, sufficient
9 knowledge in all areas of required training. If such
10 knowledge is inadequate the Department shall require the
11 nursing assistant, habilitation aide, or child care aide to
12 complete inservice training and review in the facility
13 until the nursing assistant, habilitation aide, or child
14 care aide demonstrates to the Department, either through
15 written examination or action, or both, sufficient
16 knowledge in all areas of required training.

17 (6) Be familiar with and have general skills related to
18 resident care.

19 (a-0.5) An educational entity, other than a secondary
20 school, conducting a nursing assistant, habilitation aide, or
21 child care aide training program shall initiate a criminal
22 history record check in accordance with the Health Care Worker
23 Background Check Act prior to entry of an individual into the
24 training program. A secondary school may initiate a criminal
25 history record check in accordance with the Health Care Worker
26 Background Check Act at any time during or after a training

1 program.

2 (a-1) Nursing assistants, habilitation aides, or child
3 care aides seeking to be included on the Health Care Worker
4 Registry under the Health Care Worker Background Check Act
5 ~~registry maintained under Section 3-206.01~~ on or after January
6 1, 1996 must authorize the Department of Public Health or its
7 designee to request a criminal history record check in
8 accordance with the Health Care Worker Background Check Act and
9 submit all necessary information. An individual may not newly
10 be included on the Health Care Worker Registry ~~registry~~ unless
11 a criminal history record check has been conducted with respect
12 to the individual.

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

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

21 (d) Proof of compliance by each employee with the
22 requirements set out in this Section shall be maintained for
23 each such employee by each facility in the individual personnel
24 folder of the employee. Proof of training shall be obtained
25 only from the Health Care Worker Registry ~~health care worker~~
26 ~~registry~~.

1 (e) Each facility shall obtain access to the Health Care
2 Worker Registry's ~~health care worker registry's~~ web
3 application, maintain the employment and demographic
4 information relating to each employee, and verify by the
5 category and type of employment that each employee subject to
6 this Section meets all the requirements of this Section.

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

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

25 The Department's rules shall also provide for
26 circumstances and procedures whereby any person who has

1 received training that meets the requirements of this
2 subsection shall not be required to undergo additional training
3 if he or she is transferred to or obtains employment at a
4 different facility or a facility other than a long-term care
5 facility but remains continuously employed for pay as a nursing
6 assistant, habilitation aide, or child care aide. Individuals
7 who have performed no nursing or nursing-related services for a
8 period of 24 consecutive months shall be listed as "inactive"
9 and as such do not meet the requirements of this Section.
10 Licensed sheltered care facilities shall be exempt from the
11 requirements of this Section.

12 (Source: P.A. 96-1372, eff. 7-29-10.)

13 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par. 4153-206.01)

14 Sec. 3-206.01. Health Care Worker Registry ~~care worker~~
15 ~~registry.~~

16 (a) ~~The Department shall establish and maintain a Health~~
17 ~~Care Worker Registry accessible by health care employers, as~~
18 ~~defined in the Health Care Worker Background Check Act, that~~
19 ~~includes background check and training information of all~~
20 ~~individuals who (i) have satisfactorily completed the training~~
21 ~~required by Section 3-206, (ii) have begun a current course of~~
22 ~~training as set forth in Section 3-206, or (iii) are otherwise~~
23 ~~acting as a nursing assistant, habilitation aide, home health~~
24 ~~aide, psychiatric services rehabilitation aide, or child care~~
25 ~~aide. Any individual placed on the registry is required to~~

1 ~~inform the Department of any change of address within 30 days.~~

2 A facility shall not employ an individual as a nursing
3 assistant, habilitation aide, home health aide, psychiatric
4 services rehabilitation aide, or child care aide, or newly
5 hired as an individual who may have access to a resident, a
6 resident's living quarters, or a resident's personal,
7 financial, or medical records, unless the facility has inquired
8 of the Department's Health Care Worker Registry and the
9 individual is listed on the Health Care Worker Registry as
10 eligible to work for a health care employer ~~health care worker~~
11 ~~registry as to information in the registry concerning the~~
12 ~~individual~~. The facility shall not employ an individual as a
13 nursing assistant, habilitation aide, or child care aide if
14 that individual is not on the Health Care Worker Registry
15 ~~registry~~ unless the individual is enrolled in a training
16 program under paragraph (5) of subsection (a) of Section 3-206
17 of this Act. The Department may also maintain a publicly
18 accessible registry.

19 (a-5) The Health Care Worker Registry ~~registry~~ maintained
20 by the Department exclusive to health care employers, as
21 defined in the Health Care Worker Background Check Act, shall
22 clearly indicate whether an applicant or employee is eligible
23 for employment and shall include the following:

24 (1) information about the individual, including the
25 individual's name, his or her current address, Social
26 Security number, the date and location of the training

1 course completed by the individual, whether the individual
2 has any of the disqualifying convictions listed in Section
3 25 of the Health Care Worker Background Check Act from the
4 date of the individual's last criminal record check,
5 whether the individual has a waiver pending under Section
6 40 of the Health Care Worker Background Check Act, and
7 whether the individual has received a waiver under Section
8 40 of that Act;

9 (2) the following language:

10 "A waiver granted by the Department of Public
11 Health is a determination that the applicant or
12 employee is eligible to work in a health care facility.
13 The Equal Employment Opportunity Commission provides
14 guidance about federal law regarding hiring of
15 individuals with criminal records."; and

16 (3) a link to Equal Employment Opportunity Commission
17 guidance regarding hiring of individuals with criminal
18 records.

19 (a-10) After January 1, 2017, the publicly accessible
20 registry maintained by the Department shall report that an
21 individual is ineligible to work if he or she has a
22 disqualifying offense under Section 25 of the Health Care
23 Worker Background Check Act and has not received a waiver under
24 Section 40 of that Act. If an applicant or employee has
25 received a waiver for one or more disqualifying offenses under
26 Section 40 of the Health Care Worker Background Check Act and

1 he or she is otherwise eligible to work, the Department of
2 Public Health shall report on the public registry that the
3 applicant or employee is eligible to work. The Department,
4 however, shall not report information regarding the waiver on
5 the public registry.

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

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

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

15 (Source: P.A. 99-78, eff. 7-20-15; 99-872, eff. 1-1-17.)

16 (210 ILCS 45/3-206.02 rep.)

17 Section 20. The Nursing Home Care Act is amended by
18 repealing Section 3-206.02.

19 Section 25. The MC/DD Act is amended by changing Sections
20 3-206 and 3-206.01 as follows:

21 (210 ILCS 46/3-206)

22 Sec. 3-206. Curriculum for training nursing assistants and
23 aides. The Department shall prescribe a curriculum for training

1 nursing assistants, habilitation aides, and child care aides.

2 (a) No person, except a volunteer who receives no
3 compensation from a facility and is not included for the
4 purpose of meeting any staffing requirements set forth by the
5 Department, shall act as a nursing assistant, habilitation
6 aide, or child care aide in a facility, nor shall any person,
7 under any other title, not licensed, certified, or registered
8 to render medical care by the Department of Financial and
9 Professional Regulation, assist with the personal, medical, or
10 nursing care of residents in a facility, unless such person
11 meets the following requirements:

12 (1) Be at least 16 years of age, of temperate habits
13 and good moral character, honest, reliable and
14 trustworthy.

15 (2) Be able to speak and understand the English
16 language or a language understood by a substantial
17 percentage of the facility's residents.

18 (3) Provide evidence of employment or occupation, if
19 any, and residence for 2 years prior to his or her present
20 employment.

21 (4) Have completed at least 8 years of grade school or
22 provide proof of equivalent knowledge.

23 (5) Begin a current course of training for nursing
24 assistants, habilitation aides, or child care aides,
25 approved by the Department, within 45 days of initial
26 employment in the capacity of a nursing assistant,

1 habilitation aide, or child care aide at any facility. Such
2 courses of training shall be successfully completed within
3 120 days of initial employment in the capacity of nursing
4 assistant, habilitation aide, or child care aide at a
5 facility. Nursing assistants, habilitation aides, and
6 child care aides who are enrolled in approved courses in
7 community colleges or other educational institutions on a
8 term, semester or trimester basis, shall be exempt from the
9 120-day completion time limit. The Department shall adopt
10 rules for such courses of training. These rules shall
11 include procedures for facilities to carry on an approved
12 course of training within the facility.

13 The Department may accept comparable training in lieu
14 of the 120-hour course for student nurses, foreign nurses,
15 military personnel, or employees of the Department of Human
16 Services.

17 The facility shall develop and implement procedures,
18 which shall be approved by the Department, for an ongoing
19 review process, which shall take place within the facility,
20 for nursing assistants, habilitation aides, and child care
21 aides.

22 At the time of each regularly scheduled licensure
23 survey, or at the time of a complaint investigation, the
24 Department may require any nursing assistant, habilitation
25 aide, or child care aide to demonstrate, either through
26 written examination or action, or both, sufficient

1 knowledge in all areas of required training. If such
2 knowledge is inadequate the Department shall require the
3 nursing assistant, habilitation aide, or child care aide to
4 complete inservice training and review in the facility
5 until the nursing assistant, habilitation aide, or child
6 care aide demonstrates to the Department, either through
7 written examination or action, or both, sufficient
8 knowledge in all areas of required training; and

9 (6) Be familiar with and have general skills related to
10 resident care.

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

20 (a-1) Nursing assistants, habilitation aides, or child
21 care aides seeking to be included on the Health Care Worker
22 Registry under the Health Care Worker Background Check Act
23 ~~registry maintained under Section 3-206.01 of this Act~~ must
24 authorize the Department of Public Health or its designee to
25 request a criminal history record check in accordance with the
26 Health Care Worker Background Check Act and submit all

1 necessary information. An individual may not newly be included
2 on the Health Care Worker Registry ~~registry~~ unless a criminal
3 history record check has been conducted with respect to the
4 individual.

5 (b) Persons subject to this Section shall perform their
6 duties under the supervision of a licensed nurse or other
7 appropriately trained, licensed, or certified personnel.

8 (c) It is unlawful for any facility to employ any person in
9 the capacity of nursing assistant, habilitation aide, or child
10 care aide, or under any other title, not licensed by the State
11 of Illinois to assist in the personal, medical, or nursing care
12 of residents in such facility unless such person has complied
13 with this Section.

14 (d) Proof of compliance by each employee with the
15 requirements set out in this Section shall be maintained for
16 each such employee by each facility in the individual personnel
17 folder of the employee. Proof of training shall be obtained
18 only from the Health Care Worker Registry ~~health care worker~~
19 ~~registry~~.

20 (e) Each facility shall obtain access to the Health Care
21 Worker Registry's ~~health care worker registry's~~ web
22 application, maintain the employment and demographic
23 information relating to each employee, and verify by the
24 category and type of employment that each employee subject to
25 this Section meets all the requirements of this Section.

26 (f) Any facility that is operated under Section 3-803 shall

1 be exempt from the requirements of this Section.

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

15 The Department's rules shall provide that such training may
16 be conducted in house at each facility subject to the
17 requirements of this subsection, in which case such training
18 shall be monitored by the Department. The Department's rules
19 shall also provide for circumstances and procedures whereby any
20 person who has received training that meets the requirements of
21 this subsection shall not be required to undergo additional
22 training if he or she is transferred to or obtains employment
23 at a different facility or a facility other than those licensed
24 under this Act but remains continuously employed as a nursing
25 assistant, habilitation aide, or child care aide. Individuals
26 who have performed no nursing, nursing-related services, or

1 habilitation services for a period of 24 consecutive months
2 shall be listed as inactive and as such do not meet the
3 requirements of this Section. Licensed sheltered care
4 facilities shall be exempt from the requirements of this
5 Section.

6 (Source: P.A. 99-180, eff. 7-29-15.)

7 (210 ILCS 46/3-206.01)

8 Sec. 3-206.01. Health Care Worker Registry ~~care worker~~
9 ~~registry.~~

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

1 newly hired as an individual who may have access to a resident,
2 a resident's living quarters, or a resident's personal,
3 financial, or medical records, unless the facility has checked
4 ~~inquired of~~ the Department's Health Care Worker Registry and
5 the individual is listed on the Health Care Worker Registry as
6 eligible to work for a health care employer ~~health care worker~~
7 ~~registry as to information in the registry concerning the~~
8 ~~individual~~. The facility shall not employ an individual as a
9 nursing assistant, habilitation aide, or child care aide if
10 that individual is not on the Health Care Worker Registry
11 ~~registry~~ unless the individual is enrolled in a training
12 program under paragraph (5) of subsection (a) of Section 3-206
13 of this Act.

14 ~~If the Department finds that a nursing assistant,~~
15 ~~habilitation aide, home health aide, child care aide, or an~~
16 ~~unlicensed individual, has abused or neglected a resident or an~~
17 ~~individual under his or her care, or misappropriated property~~
18 ~~of a resident or an individual under his or her care in a~~
19 ~~facility, the Department shall notify the individual of this~~
20 ~~finding by certified mail sent to the address contained in the~~
21 ~~registry. The notice shall give the individual an opportunity~~
22 ~~to contest the finding in a hearing before the Department or to~~
23 ~~submit a written response to the findings in lieu of requesting~~
24 ~~a hearing. If, after a hearing or if the individual does not~~
25 ~~request a hearing, the Department finds that the individual~~
26 ~~abused a resident, neglected a resident, or misappropriated~~

1 ~~resident property in a facility, the finding shall be included~~
2 ~~as part of the registry as well as a clear and accurate summary~~
3 ~~statement from the individual, if he or she chooses to make~~
4 ~~such a statement. The Department shall make the following~~
5 ~~information in the registry available to the public: an~~
6 ~~individual's full name; the date an individual successfully~~
7 ~~completed a nurse aide training or competency evaluation; and~~
8 ~~whether the Department has made a finding that an individual~~
9 ~~has been guilty of abuse or neglect of a resident or~~
10 ~~misappropriation of resident's property. In the case of~~
11 ~~inquiries to the registry concerning an individual listed in~~
12 ~~the registry, any information disclosed concerning such a~~
13 ~~finding shall also include disclosure of the individual's~~
14 ~~statement in the registry relating to the finding or a clear~~
15 ~~and accurate summary of the statement.~~

16 (b) (Blank). ~~The Department shall add to the health care~~
17 ~~worker registry records of findings as reported by the~~
18 ~~Inspector General or remove from the health care worker~~
19 ~~registry records of findings as reported by the Department of~~
20 ~~Human Services, under subsection (s) of Section 1-17 of the~~
21 ~~Department of Human Services Act.~~

22 (Source: P.A. 99-180, eff. 7-29-15.)

23 (210 ILCS 46/3-206.02 rep.)

24 Section 30. The MC/DD Act is amended by repealing Section
25 3-206.02.

1 Section 35. The ID/DD Community Care Act is amended by
2 changing Sections 3-206 and 3-206.01 as follows:

3 (210 ILCS 47/3-206)

4 Sec. 3-206. Curriculum for training nursing assistants and
5 aides. The Department shall prescribe a curriculum for training
6 nursing assistants, habilitation aides, and child care aides.

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

17 (1) Be at least 16 years of age, of temperate habits
18 and good moral character, honest, reliable and
19 trustworthy.

20 (2) Be able to speak and understand the English
21 language or a language understood by a substantial
22 percentage of the facility's residents.

23 (3) Provide evidence of employment or occupation, if
24 any, and residence for 2 years prior to his or her present

1 employment.

2 (4) Have completed at least 8 years of grade school or
3 provide proof of equivalent knowledge.

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

20 The Department may accept comparable training in lieu
21 of the 120-hour course for student nurses, foreign nurses,
22 military personnel, or employees of the Department of Human
23 Services.

24 The facility shall develop and implement procedures,
25 which shall be approved by the Department, for an ongoing
26 review process, which shall take place within the facility,

1 for nursing assistants, habilitation aides, and child care
2 aides.

3 At the time of each regularly scheduled licensure
4 survey, or at the time of a complaint investigation, the
5 Department may require any nursing assistant, habilitation
6 aide, or child care aide to demonstrate, either through
7 written examination or action, or both, sufficient
8 knowledge in all areas of required training. If such
9 knowledge is inadequate the Department shall require the
10 nursing assistant, habilitation aide, or child care aide to
11 complete inservice training and review in the facility
12 until the nursing assistant, habilitation aide, or child
13 care aide demonstrates to the Department, either through
14 written examination or action, or both, sufficient
15 knowledge in all areas of required training; and

16 (6) Be familiar with and have general skills related to
17 resident care.

18 (a-0.5) An educational entity, other than a secondary
19 school, conducting a nursing assistant, habilitation aide, or
20 child care aide training program shall initiate a criminal
21 history record check in accordance with the Health Care Worker
22 Background Check Act prior to entry of an individual into the
23 training program. A secondary school may initiate a criminal
24 history record check in accordance with the Health Care Worker
25 Background Check Act at any time during or after a training
26 program.

1 (a-1) Nursing assistants, habilitation aides, or child
2 care aides seeking to be included on the Health Care Worker
3 Registry under the Health Care Worker Background Check Act
4 ~~registry maintained under Section 3-206.01 of this Act~~ must
5 authorize the Department of Public Health or its designee to
6 request a criminal history record check in accordance with the
7 Health Care Worker Background Check Act and submit all
8 necessary information. An individual may not newly be included
9 on the Health Care Worker Registry ~~registry~~ unless a criminal
10 history record check has been conducted with respect to the
11 individual.

12 (b) Persons subject to this Section shall perform their
13 duties under the supervision of a licensed nurse or other
14 appropriately trained, licensed, or certified personnel.

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

21 (d) Proof of compliance by each employee with the
22 requirements set out in this Section shall be maintained for
23 each such employee by each facility in the individual personnel
24 folder of the employee. Proof of training shall be obtained
25 only from the Health Care Worker Registry ~~health care worker~~
26 ~~registry~~.

1 (e) Each facility shall obtain access to the Health Care
2 Worker Registry's ~~health care worker registry's~~ web
3 application, maintain the employment and demographic
4 information relating to each employee, and verify by the
5 category and type of employment that each employee subject to
6 this Section meets all the requirements of this Section.

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

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

22 The Department's rules shall provide that such training may
23 be conducted in house at each facility subject to the
24 requirements of this subsection, in which case such training
25 shall be monitored by the Department. The Department's rules
26 shall also provide for circumstances and procedures whereby any

1 person who has received training that meets the requirements of
2 this subsection shall not be required to undergo additional
3 training if he or she is transferred to or obtains employment
4 at a different facility or a facility other than those licensed
5 under this Act but remains continuously employed as a nursing
6 assistant, habilitation aide, or child care aide. Individuals
7 who have performed no nursing, nursing-related services, or
8 habilitation services for a period of 24 consecutive months
9 shall be listed as inactive and as such do not meet the
10 requirements of this Section. Licensed sheltered care
11 facilities shall be exempt from the requirements of this
12 Section.

13 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11.)

14 (210 ILCS 47/3-206.01)

15 Sec. 3-206.01. Health Care Worker Registry ~~care worker~~
16 ~~registry.~~

17 (a) ~~The Department shall establish and maintain a registry~~
18 ~~of all individuals who (i) have satisfactorily completed the~~
19 ~~training required by Section 3-206, (ii) have begun a current~~
20 ~~course of training as set forth in Section 3-206, or (iii) are~~
21 ~~otherwise acting as a nursing assistant, habilitation aide,~~
22 ~~home health aide, or child care aide. The registry shall~~
23 ~~include the individual's name, his or her current address,~~
24 ~~Social Security number, and whether the individual has any of~~
25 ~~the disqualifying convictions listed in Section 25 of the~~

1 ~~Health Care Worker Background Check Act from the date and~~
2 ~~location of the training course completed by the individual,~~
3 ~~and the date of the individual's last criminal records check.~~
4 ~~Any individual placed on the registry is required to inform the~~
5 ~~Department of any change of address within 30 days.~~ A facility
6 shall not employ an individual as a nursing assistant,
7 habilitation aide, home health aide, or child care aide, or
8 newly hired as an individual who may have access to a resident,
9 a resident's living quarters, or a resident's personal,
10 financial, or medical records, unless the facility has checked
11 ~~inquired of~~ the Department's Health Care Worker Registry and
12 the individual is listed on the Health Care Worker Registry as
13 eligible to work for a health care employer ~~health care worker~~
14 ~~registry as to information in the registry concerning the~~
15 ~~individual~~. The facility shall not employ an individual as a
16 nursing assistant, habilitation aide, or child care aide if
17 that individual is not on the Health Care Worker Registry
18 ~~registry~~ unless the individual is enrolled in a training
19 program under paragraph (5) of subsection (a) of Section 3-206
20 of this Act.

21 ~~If the Department finds that a nursing assistant,~~
22 ~~habilitation aide, home health aide, child care aide, or an~~
23 ~~unlicensed individual, has abused or neglected a resident or an~~
24 ~~individual under his or her care, or misappropriated property~~
25 ~~of a resident or an individual under his or her care in a~~
26 ~~facility, the Department shall notify the individual of this~~

1 ~~finding by certified mail sent to the address contained in the~~
2 ~~registry. The notice shall give the individual an opportunity~~
3 ~~to contest the finding in a hearing before the Department or to~~
4 ~~submit a written response to the findings in lieu of requesting~~
5 ~~a hearing. If, after a hearing or if the individual does not~~
6 ~~request a hearing, the Department finds that the individual~~
7 ~~abused a resident, neglected a resident, or misappropriated~~
8 ~~resident property in a facility, the finding shall be included~~
9 ~~as part of the registry as well as a clear and accurate summary~~
10 ~~statement from the individual, if he or she chooses to make~~
11 ~~such a statement. The Department shall make the following~~
12 ~~information in the registry available to the public: an~~
13 ~~individual's full name; the date an individual successfully~~
14 ~~completed a nurse aide training or competency evaluation; and~~
15 ~~whether the Department has made a finding that an individual~~
16 ~~has been guilty of abuse or neglect of a resident or~~
17 ~~misappropriation of resident's property. In the case of~~
18 ~~inquiries to the registry concerning an individual listed in~~
19 ~~the registry, any information disclosed concerning such a~~
20 ~~finding shall also include disclosure of the individual's~~
21 ~~statement in the registry relating to the finding or a clear~~
22 ~~and accurate summary of the statement.~~

23 (b) (Blank). ~~The Department shall add to the health care~~
24 ~~worker registry records of findings as reported by the~~
25 ~~Inspector General or remove from the health care worker~~
26 ~~registry records of findings as reported by the Department of~~

1 ~~Human Services, under subsection (s) of Section 1-17 of the~~
2 ~~Department of Human Services Act.~~

3 (Source: P.A. 99-78, eff. 7-20-15.)

4 (210 ILCS 47/3-206.02 rep.)

5 Section 40. The ID/DD Community Care Act is amended by
6 repealing Section 3-206.02.

7 Section 45. The Health Care Worker Background Check Act is
8 amended by changing Sections 15, 25, 33, and 40 and by adding
9 Sections 26, 27, 28, and 75 as follows:

10 (225 ILCS 46/15)

11 Sec. 15. Definitions. In this Act:

12 "Abuse" means any conduct by an employee that is violent,
13 cruel, insulting, disparaging, derogatory, humiliating,
14 threatening, harassing, or offensive directly to a resident
15 under the direct care of a health care employer, regardless of
16 the resident's age, ability to comprehend, or disability or
17 regardless of whether the resident was actually harmed by the
18 conduct of the employee.

19 "Applicant" means an individual seeking employment,
20 whether paid or on a volunteer basis, with a health care
21 employer who has received a bona fide conditional offer of
22 employment.

23 "Conditional offer of employment" means a bona fide offer

1 of employment by a health care employer to an applicant, which
2 is contingent upon the receipt of a report from the Department
3 of Public Health indicating that the applicant does not have a
4 record of conviction of any of the criminal offenses enumerated
5 in Section 25.

6 "Department" means the Department of Public Health.

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

16 "Director" means the Director of Public Health.

17 "Disqualifying offenses" means those offenses set forth in
18 Section 25 of this Act.

19 "Employee" means any individual hired, employed, or
20 retained, whether paid or on a volunteer basis, to which this
21 Act applies.

22 "Finding" means the Department's determination of whether
23 an allegation is verified and substantiated.

24 "Fingerprint-based criminal history records check" means a
25 livescan fingerprint-based criminal history records check
26 submitted as a fee applicant inquiry in the form and manner

1 prescribed by the Department of State Police.

2 "Health care employer" means:

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

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

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

8 (iii) a long-term care facility;

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

12 (v) a hospice care program or volunteer hospice
13 program, as defined in the Hospice Program Licensing
14 Act;

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

17 (vii) (blank);

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

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

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

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

26 (xi) early childhood intervention programs as

1 described in 59 Ill. Adm. Code 121;

2 (xii) the University of Illinois Hospital,
3 Chicago;

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

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

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

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

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

16 (3) a community integrated living arrangement operated
17 by a community mental health and developmental service
18 agency, as defined in the Community-Integrated Living
19 Arrangements Licensing and Certification Act; or

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

24 "Initiate" means obtaining from a student, applicant, or
25 employee his or her social security number, demographics, a
26 disclosure statement, and an authorization for the Department

1 of Public Health or its designee to request a fingerprint-based
2 criminal history records check; transmitting this information
3 electronically to the Department of Public Health; conducting
4 Internet searches on certain web sites, including without
5 limitation the Illinois Sex Offender Registry, the Department
6 of Corrections' Sex Offender Search Engine, the Department of
7 Corrections' Inmate Search Engine, the Department of
8 Corrections Wanted Fugitives Search Engine, the National Sex
9 Offender Public Registry, and the List of Excluded Individuals
10 and Entities database on the website of the Health and Human
11 Services Office of Inspector General to determine if the
12 applicant has been adjudicated a sex offender, has been a
13 prison inmate, or has committed Medicare or Medicaid fraud, or
14 conducting similar searches as defined by rule; and having the
15 student, applicant, or employee's fingerprints collected and
16 transmitted electronically to the Department of State Police.

17 "Livescan vendor" means an entity whose equipment has been
18 certified by the Department of State Police to collect an
19 individual's demographics and inkless fingerprints and, in a
20 manner prescribed by the Department of State Police and the
21 Department of Public Health, electronically transmit the
22 fingerprints and required data to the Department of State
23 Police and a daily file of required data to the Department of
24 Public Health. The Department of Public Health shall negotiate
25 a contract with one or more vendors that effectively
26 demonstrate that the vendor has 2 or more years of experience

1 transmitting fingerprints electronically to the Department of
2 State Police and that the vendor can successfully transmit the
3 required data in a manner prescribed by the Department of
4 Public Health. Vendor authorization may be further defined by
5 administrative rule.

6 "Long-term care facility" means a facility licensed by the
7 State or certified under federal law as a long-term care
8 facility, including without limitation facilities licensed
9 under the Nursing Home Care Act, the Specialized Mental Health
10 Rehabilitation Act of 2013, the ID/DD Community Care Act, or
11 the MC/DD Act, a supportive living facility, an assisted living
12 establishment, or a shared housing establishment or registered
13 as a board and care home.

14 "Misappropriation of property" means the deliberate
15 misplacement, exploitation, or wrongful, temporary, or
16 permanent use of a resident's belongings or money without the
17 resident's consent.

18 "Neglect" means a failure to provide goods and services
19 that may pose any risk of physical harm, mental anguish, or
20 mental illness to a resident.

21 "Resident" means a person, individual, or patient under the
22 direct care of a health care employer or who has been provided
23 goods or services by a health care employer.

24 (Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

1 Sec. 25. Hiring of people with criminal records by health
2 care employers and long-term care facilities.

3 (a) A health care employer or long-term care facility may
4 hire, employ, or retain any individual in a position involving
5 direct care for clients, patients, or residents, or access to
6 the living quarters or the financial, medical, or personal
7 records of clients, patients, or residents who has been
8 convicted of committing or attempting to commit one or more of
9 the following offenses only with a waiver described in Section
10 40: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2,
11 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2, 10-3,
12 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50,
13 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3, 11-9.4-1, 11-9.5,
14 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3.05,
15 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4,
16 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1,
17 12-15, 12-16, 12-19, 12-21, 12-21.5, 12-21.6, 12-32, 12-33,
18 12C-5, 12C-10, 16-1, 16-1.3, 16-5, 16-16, 16-25, 16A-3, 17-3,
19 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 19-6,
20 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8, or 33A-2, or
21 subdivision (a)(4) of Section 11-14.4, or in subsection (a) of
22 Section 12-3 or subsection (a) or (b) of Section 12-4.4a, of
23 the Criminal Code of 1961 or the Criminal Code of 2012; those
24 provided in Section 4 of the Wrongs to Children Act; those
25 provided in Section 53 of the Criminal Jurisprudence Act; those
26 defined in subsection (c), (d), (e), (f), or (g) of Section 5

1 or Section 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those
2 defined in the Methamphetamine Control and Community
3 Protection Act; ~~or~~ those defined in Sections 401, 401.1, 404,
4 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances
5 Act; Sections 3.01 or 3.03 of the Humane Care for Animals Act;
6 or Section 4 of the Narcotics Profit Forfeiture Act.

7 (a-1) A health care employer or long-term care facility may
8 hire, employ, or retain any individual in a position involving
9 direct care for clients, patients, or residents, or access to
10 the living quarters or the financial, medical, or personal
11 records of clients, patients, or residents who has been
12 convicted of committing or attempting to commit one or more of
13 the following offenses only with a waiver described in Section
14 40: those offenses defined in Section 12-3.3, 12-4.2-5, 16-2,
15 16-30, 16G-15, 16G-20, 17-33, 17-34, 17-36, 17-44, 18-5,
16 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3, or
17 subsection (b) of Section 17-32, subsection (b) of Section
18 18-1, or subsection (b) of Section 20-1, of the Criminal Code
19 of 1961 or the Criminal Code of 2012; Section 4, 5, 6, 8, or
20 17.02 of the Illinois Credit Card and Debit Card Act; or
21 Section 11-9.1A of the Criminal Code of 1961 or the Criminal
22 Code of 2012 or Section 5.1 of the Wrongs to Children Act; or
23 (ii) violated Section 50-50 of the Nurse Practice Act.

24 A health care employer is not required to retain an
25 individual in a position with duties involving direct care for
26 clients, patients, or residents, and no long-term care facility

1 is required to retain an individual in a position with duties
2 that involve or may involve contact with residents or access to
3 the living quarters or the financial, medical, or personal
4 records of residents, who has been convicted of committing or
5 attempting to commit one or more of the offenses enumerated in
6 this subsection.

7 (b) A health care employer shall not hire, employ, or
8 retain, whether paid or on a volunteer basis, any individual in
9 a position with duties involving direct care of clients,
10 patients, or residents, and no long-term care facility shall
11 knowingly hire, employ, or retain, whether paid or on a
12 volunteer basis, any individual in a position with duties that
13 involve or may involve contact with residents or access to the
14 living quarters or the financial, medical, or personal records
15 of residents, if the health care employer becomes aware that
16 the individual has been convicted in another state of
17 committing or attempting to commit an offense that has the same
18 or similar elements as an offense listed in subsection (a) or
19 (a-1), as verified by court records, records from a state
20 agency, or an FBI criminal history record check, unless the
21 applicant or employee obtains a waiver pursuant to Section 40
22 of this Act. This shall not be construed to mean that a health
23 care employer has an obligation to conduct a criminal history
24 records check in other states in which an employee has resided.

25 (c) A health care employer shall not hire, employ, or
26 retain, whether paid or on a volunteer basis, any individual in

1 a position with duties involving direct care of clients,
2 patients, or residents, who has a finding by the Department of
3 abuse, neglect, misappropriation of property or theft or any
4 other applicable finding set forth by rule that is denoted on
5 the Health Care Worker Registry.

6 (d) A health care employer shall not hire, employ, or
7 retain, whether paid or on a volunteer basis, any individual in
8 a position with duties involving direct care of clients,
9 patients, or residents if the individual has a verified and
10 substantiated finding of abuse, neglect, or financial
11 exploitation, as identified within the Adult Protective
12 Service Registry established under Section 7.5 of the Adult
13 Protective Services Act.

14 (Source: P.A. 99-872, eff. 1-1-17.)

15 (225 ILCS 46/26 new)

16 Sec. 26. Health Care Worker Registry. The Department shall
17 establish and maintain the Health Care Worker Registry, a
18 registry of all individuals who (i) have satisfactorily
19 completed the training required by Section 3-206 of the Nursing
20 Home Care Act, Section 3-206 of the MC/DD Act, or Section 3-206
21 of the ID/DD Community Care Act, (ii) have begun a current
22 course of training as set forth in Section 3-206 of the Nursing
23 Home Care Act, Section 3-206 of the MC/DD Act, or Section 3-206
24 of the ID/DD Community Care Act, or (iii) are otherwise acting
25 as a nursing assistant, habilitation aide, home health aide, or

1 child care aide. The Health Care Worker Registry shall include
2 the individual's name, current address, and Social Security
3 number, the date and location of the training course completed
4 by the individual, whether the individual has any of the
5 disqualifying convictions listed in Section 25 of the Health
6 Care Worker Background Check Act from the date of the training
7 course completed by the individual, and the date of the
8 individual's last criminal records check. Any individual
9 placed on the Health Care Worker Registry is required to inform
10 the Department of any change of address within 30 days after
11 the effective date of the change of address.

12 The Department shall include in the Health Care Worker
13 Registry established under this Section the information
14 contained in the registries established under Section 3-206.01
15 of the Nursing Home Care Act, Section 3-206.01 of the MC/DD
16 Act, and Section 3-206.01 of the ID/DD Community Care Act.

17 (225 ILCS 46/27 new)

18 Sec. 27. Notice and hearing prior to designation on Health
19 Care Worker Registry for offense.

20 (a) If the Department finds that an employee or former
21 employee has abused or neglected a resident, misappropriated
22 property of a resident, or makes any other applicable finding
23 as set forth by rule, the Department shall notify the employee
24 or individual of this finding by certified mail sent to the
25 address contained in the Health Care Worker Registry. The

1 notice shall give the employee or individual an opportunity to
2 contest the finding in a hearing before the Department or to
3 submit a written response to the finding in lieu of requesting
4 a hearing.

5 (b) The Department shall have the authority to hold
6 hearings to be conducted by the Director, or by an individual
7 designated by the Director as hearing officer to conduct the
8 hearing. On the basis of a hearing, or upon default of the
9 employee, the Director shall make a determination specifying
10 his or her findings and conclusions. A copy of the
11 determination shall be sent by certified mail, return receipt
12 requested, or served personally upon the employee to the
13 address last provided by the employee to the Department.

14 (c) The procedure governing hearings authorized by this
15 Section shall be in accordance with rules adopted by the
16 Department. A full and complete record shall be kept of all
17 proceedings, including the notice of hearing, and all other
18 documents in the nature of pleadings, written motions filed in
19 the proceedings, and the report and orders of the Director or
20 the Director's designee. All testimony shall be reported but
21 need not be transcribed unless the decision is sought to be
22 reviewed under the Administrative Review Law. A copy or copies
23 of the transcript and record of the proceedings may be obtained
24 by any interested party subsequent to payment to the Department
25 of the cost of preparing the copy or copies. All final
26 administrative decisions of the Department under this Act are

1 subject to judicial review under the Administrative Review Law
2 and the rules adopted pursuant thereto. For purposes of this
3 subsection, "administrative decision" has the meaning provided
4 in Section 3-101 of the Code of Civil Procedure.

5 (d) The Department may issue subpoenas requiring the
6 attendance and the giving of testimony by witnesses, and
7 subpoenas duces tecum requiring the production of books,
8 papers, records, or memoranda. All subpoenas and subpoenas
9 duces tecum issued under this Act may be served by mail or by
10 any person of legal age. The fees of witnesses for attendance
11 and travel shall be the same as the fees of witnesses before
12 the courts of this State. The fees shall to be paid when the
13 witness is excused from further attendance. When the witness is
14 subpoenaed at the instance of the Department, the fees shall be
15 paid in the same manner as other expenses of the Department,
16 and when the witness is subpoenaed at the instance of any other
17 party to any such proceeding, the Department may require that
18 the cost of service of the subpoena or subpoena duces tecum and
19 the fee of the witness be borne by the party at whose instance
20 the witness is summoned. A subpoena or subpoena duces tecum
21 issued pursuant to this Section shall be served in the same
22 manner as a subpoena issued by a circuit court.

23 (e) If, after a hearing or if the employee, or former
24 employee, does not request a hearing, the Department finds that
25 the employee, or former employee, abused a resident, neglected
26 a resident, or misappropriated resident property or makes any

1 other applicable finding as set forth by rule, the finding
2 shall be included as part of the Health Care Worker Registry as
3 well as a clear and accurate summary from the employee, if he
4 or she chooses to make a statement.

5 (f) The Department shall make the following information in
6 the Health Care Worker Registry available to the public: an
7 individual's full name; the date an individual successfully
8 completed a nurse aide training or competency evaluation; and
9 whether the Department has made a finding that an employee, or
10 former employee, has been guilty of abuse or neglect of a
11 resident or misappropriation of resident property or has made
12 any other applicable finding as set forth by rule. In the case
13 of inquiries to the Health Care Worker Registry concerning an
14 employee, or former employee, listed in the Health Care Worker
15 Registry, any information disclosed concerning a finding shall
16 also include disclosure of the employee's, or former
17 employee's, statement in the Health Care Worker Registry
18 relating to the finding or a clear and accurate summary of the
19 statement.

20 (g) The Department shall add to the Health Care Worker
21 Registry records of findings as reported by the Inspector
22 General or remove from the Health Care Worker Registry records
23 of findings as reported by the Department of Human Services,
24 under subsection (s) of Section 1-17 of the Department of Human
25 Services Act.

1 (225 ILCS 46/28 new)

2 Sec. 28. Designation on Registry for offense.

3 (a) The Department, after notice to the employee, or former
4 employee, may denote on the Health Care Worker Registry that
5 the Department has found any of the following:

6 (1) The employee, or former employee, has abused a
7 resident.

8 (2) The employee, or former employee, has neglected a
9 resident.

10 (3) The employee, or former employee, has
11 misappropriated resident property.

12 (4) The employee, or former employee, has been
13 convicted of (i) a felony; (ii) a misdemeanor, an essential
14 element of which is dishonesty; or (iii) any crime that is
15 directly related to the duties of an employee, a nursing
16 assistant, habilitation aide, or child care aide.

17 (5) The employee, or former employee, has a finding as
18 set forth by rule that may be detrimental to the care of
19 patients or residents or to other staff of a health care
20 employer.

21 (b) Notice under this Section shall include a clear and
22 concise statement of the grounds denoting abuse, neglect,
23 theft, or other applicable finding, and notice of the
24 opportunity for a hearing to contest the designation.

25 (c) The Department may denote any employee, or former
26 employee, on the Health Care Worker Registry who fails (i) to

1 file a return, (ii) to pay the tax, penalty or interest shown
2 in a filed return, or (iii) to pay any final assessment of tax,
3 penalty, or interest as required by any tax Act administered by
4 the Department of Revenue, until the time the requirements of
5 the tax Act are satisfied.

6 (d) The Department shall document criminal history records
7 check results pursuant to the requirements of this Act.

8 (e) After the designation of neglect or other applicable
9 finding as set forth by rule, on the Health Care Worker
10 Registry, made pursuant to this Section, an employee, or former
11 employee, may petition the Department for removal of a
12 designation of neglect on the Health Care Worker Registry,
13 after durations set forth within the Department's notice made
14 pursuant to subsections (a) and (b) of this Section. Upon
15 receipt of a petition, the Department may remove the
16 designation for a finding of neglect after no less than one
17 year, or the designation of applicable findings set forth by
18 rule of an employee, or former employee, for minimum durations
19 set forth by the Department, on the Health Care Worker Registry
20 unless the Department determines that removal of designation is
21 not in the public interest. The Department shall set forth by
22 rule the discretionary factors by which designations of
23 employees or former employees may be removed.

24 (225 ILCS 46/33)

25 Sec. 33. Fingerprint-based criminal history records check.

1 (a) A fingerprint-based criminal history records check is
2 not required for health care employees who have been
3 continuously employed by a health care employer since October
4 1, 2007, have met the requirements for criminal history
5 background checks prior to October 1, 2007, and have no
6 disqualifying convictions or requested and received a waiver of
7 those disqualifying convictions. These employees shall be
8 retained on the Health Care Worker Registry as long as they
9 remain active. Nothing in this subsection (a) shall be
10 construed to prohibit a health care employer from initiating a
11 criminal history records check for these employees. Should
12 these employees seek a new position with a different health
13 care employer, then a fingerprint-based criminal history
14 records check shall be required.

15 (b) On October 1, 2007 or as soon thereafter as is
16 reasonably practical, in the discretion of the Director of
17 Public Health, and thereafter, any student, applicant, or
18 employee who desires to be included on the Department of Public
19 Health's Health Care Worker Registry shall ~~must~~ authorize the
20 Department of Public Health or its designee to request a
21 fingerprint-based criminal history records check to determine
22 if the individual has a conviction for a disqualifying offense.
23 This authorization shall allow the Department of Public Health
24 to request and receive information and assistance from any
25 State or ~~local~~ governmental agency. Each individual shall
26 submit his or her fingerprints to the Department of State

1 Police in an electronic format that complies with the form and
2 manner for requesting and furnishing criminal history record
3 information prescribed by the Department of State Police. The
4 fingerprints submitted under this Section shall be checked
5 against the fingerprint records now and hereafter filed in the
6 Department of State Police criminal history record databases.
7 The Department of State Police shall charge a fee for
8 conducting the criminal history records check, which shall not
9 exceed the actual cost of the records check. The livescan
10 vendor may act as the designee for individuals, educational
11 entities, or health care employers in the collection of
12 Department of State Police fees and deposit those fees into the
13 State Police Services Fund. The Department of State Police
14 shall provide information concerning any criminal convictions,
15 now or hereafter filed, against the individual.

16 (c) On October 1, 2007 or as soon thereafter as is
17 reasonably practical, in the discretion of the Director of
18 Public Health, and thereafter, an educational entity, other
19 than a secondary school, conducting a nurse aide training
20 program shall ~~must~~ initiate a fingerprint-based criminal
21 history records check required by this Act ~~requested by the~~
22 ~~Department of Public Health~~ prior to entry of an individual
23 into the training program.

24 (d) On October 1, 2007 or as soon thereafter as is
25 reasonably practical, in the discretion of the Director of
26 Public Health, and thereafter, a health care employer who makes

1 a conditional offer of employment to an applicant for a
2 position as an employee shall ~~must~~ initiate a fingerprint-based
3 criminal history record check, requested by the Department of
4 Public Health, on the applicant, if such a background check has
5 not been previously conducted.

6 (e) When initiating a background check requested by the
7 Department of Public Health, an educational entity or health
8 care employer shall electronically submit to the Department of
9 Public Health the student's, applicant's, or employee's social
10 security number, demographics, disclosure, and authorization
11 information in a format prescribed by the Department of Public
12 Health within 2 working days after the authorization is
13 secured. The student, applicant, or employee shall ~~must~~ have
14 his or her fingerprints collected electronically and
15 transmitted to the Department of State Police within 10 working
16 days. The educational entity or health care employer shall ~~must~~
17 transmit all necessary information and fees to the livescan
18 vendor and Department of State Police within 10 working days
19 after receipt of the authorization. This information and the
20 results of the criminal history record checks shall be
21 maintained by the Department of Public Health's Health Care
22 Worker Registry.

23 (f) A direct care employer may initiate a fingerprint-based
24 background check required by this Act ~~requested by the~~
25 ~~Department of Public Health~~ for any of its employees, but may
26 not use this process to initiate background checks for

1 residents. The results of any fingerprint-based background
2 check that is initiated with the Department as the requester
3 ~~requestor~~ shall be entered in the Health Care Worker Registry.

4 (g) As long as the employee has had a fingerprint-based
5 criminal history record check required by this Act ~~requested by~~
6 ~~the Department of Public Health~~ and stays active on the Health
7 Care Worker Registry, no further criminal history record checks
8 are required ~~shall be deemed necessary~~, as the Department of
9 State Police shall notify the Department of Public Health of
10 any additional convictions associated with the fingerprints
11 previously submitted. Health care employers shall ~~are required~~
12 ~~to~~ check the Health Care Worker Registry before hiring an
13 employee to determine that the individual has had a
14 fingerprint-based record check required by this Act ~~requested~~
15 ~~by the Department of Public Health~~ and has no disqualifying
16 convictions or has been granted a waiver pursuant to Section 40
17 of this Act. If the individual has not had such a background
18 check or is not active on the Health Care Worker Registry, then
19 the health care employer shall ~~must~~ initiate a
20 fingerprint-based record check requested by the Department of
21 Public Health. If an individual is inactive on the Health Care
22 Worker Registry, that individual is prohibited from being hired
23 to work as a certified nursing assistant ~~nurse aide~~ if, since
24 the individual's most recent completion of a competency test,
25 there has been a period of 24 consecutive months during which
26 the individual has not provided nursing or nursing-related

1 services for pay. If the individual can provide proof of having
2 retained his or her certification by not having a
3 24-consecutive-month ~~24-consecutive-month~~ break in service for
4 pay, he or she may be hired as a certified nursing assistant
5 ~~nurse-aide~~ and that employment information shall be entered
6 into the Health Care Worker Registry.

7 (h) On October 1, 2007 or as soon thereafter as is
8 reasonably practical, in the discretion of the Director of
9 Public Health, and thereafter, if the Department of State
10 Police notifies the Department of Public Health that an
11 employee has a new conviction of a disqualifying offense, based
12 upon the fingerprints that were previously submitted, then (i)
13 the Health Care Worker Registry shall notify the employee's
14 last known employer of the offense, (ii) a record of the
15 employee's disqualifying offense shall be entered on the Health
16 Care Worker Registry, and (iii) the individual shall no longer
17 be eligible to work as an employee unless he or she obtains a
18 waiver pursuant to Section 40 of this Act.

19 (i) On October 1, 2007, or as soon thereafter, in the
20 discretion of the Director of Public Health, as is reasonably
21 practical, and thereafter, each direct care employer or its
22 designee shall ~~must~~ provide an employment verification for each
23 employee no less than annually. The direct care employer or its
24 designee shall ~~must~~ log into the Health Care Worker Registry
25 through a secure login. The health care employer or its
26 designee shall ~~must~~ indicate employment and termination dates

1 within 30 days after hiring or terminating an employee, as well
2 as the employment category and type. Failure to comply with
3 this subsection (i) constitutes a licensing violation. A ~~For~~
4 ~~health care employers that are not licensed or certified,~~ a
5 fine of up to \$500 may be imposed for failure to maintain these
6 records. This information shall be used by the Department of
7 Public Health to notify the last known employer of any
8 disqualifying offenses that are reported by the Department of
9 State Police.

10 (j) ~~The Department of Public Health shall notify each~~
11 ~~health care employer or long term care facility inquiring as to~~
12 ~~the information on the Health Care Worker Registry if the~~
13 ~~applicant or employee listed on the registry has a~~
14 ~~disqualifying offense and is therefore ineligible to work.~~ In
15 the event that an applicant or employee has a waiver for one or
16 more disqualifying offenses pursuant to Section 40 of this Act
17 and he or she is otherwise eligible to work, the Health Care
18 Worker Registry ~~Department of Public Health~~ shall indicate
19 ~~report~~ that the applicant or employee is eligible to work and
20 that additional information is available on the Health Care
21 Worker Registry. The Health Care Worker Registry ~~Department~~ may
22 indicate ~~report~~ that the applicant or employee has received a
23 waiver.

24 (k) The student, applicant, or employee shall ~~must~~ be
25 notified of each of the following whenever a fingerprint-based
26 criminal history records check is required:

1 (1) That the educational entity, health care employer,
2 or long-term care facility shall initiate a
3 fingerprint-based criminal history record check required
4 by this Act ~~requested by the Department of Public Health~~ of
5 the student, applicant, or employee ~~pursuant to this Act~~.

6 (2) That the student, applicant, or employee has a
7 right to obtain a copy of the criminal records report that
8 indicates a conviction for a disqualifying offense and
9 challenge the accuracy and completeness of the report
10 through an established Department of State Police
11 procedure of Access and Review.

12 (3) That the applicant, if hired conditionally, may be
13 terminated if the criminal records report indicates that
14 the applicant has a record of a conviction of any of the
15 criminal offenses enumerated in Section 25, unless the
16 applicant obtains a waiver pursuant to Section 40 of this
17 Act.

18 (4) That the applicant, if not hired conditionally,
19 shall not be hired if the criminal records report indicates
20 that the applicant has a record of a conviction of any of
21 the criminal offenses enumerated in Section 25, unless the
22 applicant obtains a waiver pursuant to Section 40 of this
23 Act.

24 (5) That the employee shall be terminated if the
25 criminal records report indicates that the employee has a
26 record of a conviction of any of the criminal offenses

1 enumerated in Section 25.

2 (6) If, after the employee has originally been
3 determined not to have disqualifying offenses, the
4 employer is notified that the employee has a new
5 conviction(s) of any of the criminal offenses enumerated in
6 Section 25, then the employee shall be terminated.

7 (1) A health care employer or long-term care facility may
8 conditionally employ an applicant for up to 3 months pending
9 the results of a fingerprint-based criminal history record
10 check requested by the Department of Public Health.

11 (m) The Department of Public Health or an entity
12 responsible for inspecting, licensing, certifying, or
13 registering the health care employer or long-term care facility
14 shall be immune from liability for notices given based on the
15 results of a fingerprint-based criminal history record check.

16 (Source: P.A. 99-872, eff. 1-1-17.)

17 (225 ILCS 46/40)

18 Sec. 40. Waiver.

19 (a) Any student, applicant, or employee listed on the
20 Health Care Worker Registry may request a waiver of the
21 prohibition against employment by:

22 (1) completing a waiver application on a form
23 prescribed by the Department of Public Health;

24 (2) providing a written explanation of each conviction
25 to include (i) what happened, (ii) how many years have

1 passed since the offense, (iii) the individuals involved,
2 (iv) the age of the applicant at the time of the offense,
3 and (v) any other circumstances surrounding the offense;
4 and

5 (3) providing official documentation showing that all
6 fines have been paid, if applicable and except for in the
7 instance of payment of court-imposed fines or restitution
8 in which the applicant is adhering to a payment schedule,
9 and the date probation or parole was satisfactorily
10 completed, if applicable.

11 (b) The applicant may, but is not required to, submit
12 employment and character references and any other evidence
13 demonstrating the ability of the applicant or employee to
14 perform the employment responsibilities competently and
15 evidence that the applicant or employee does not pose a threat
16 to the health or safety of residents, patients, or clients.

17 (c) The Department of Public Health may, at the discretion
18 of the Director of Public Health, grant a waiver to an
19 applicant, student, or employee listed on the Health Care
20 Worker Registry ~~registry~~. The Department of Public Health shall
21 act upon the waiver request within 30 days of receipt of all
22 necessary information, as defined by rule. The Department of
23 Public Health shall send an applicant, student, or employee
24 written notification of its decision whether to grant a waiver,
25 including listing the specific disqualifying offenses for
26 which the waiver is being granted or denied. The Department

1 shall issue additional copies of this written notification upon
2 the applicant's, student's, or employee's request.

3 (d) An individual shall not be employed from the time that
4 the employer receives a notification from the Department of
5 Public Health based upon the results of a fingerprint-based
6 criminal history records check containing disqualifying
7 conditions until the time that the individual receives a
8 waiver.

9 (e) The entity responsible for inspecting, licensing,
10 certifying, or registering the health care employer and the
11 Department of Public Health shall be immune from liability for
12 any waivers granted under this Section.

13 (f) A health care employer is not obligated to employ or
14 offer permanent employment to an applicant, or to retain an
15 employee who is granted a waiver under this Section.

16 (Source: P.A. 99-872, eff. 1-1-17.)

17 (225 ILCS 46/75 new)

18 Sec. 75. Rulemaking. The Department shall have the
19 authority to adopt administrative rules and procedures to carry
20 out the purpose of this Act. The provisions of the Illinois
21 Administrative Procedure Act are hereby expressly adopted and
22 shall apply to all administrative rules and procedures of the
23 Department under this Act.

24 Section 50. The Mental Health and Developmental

1 Disabilities Confidentiality Act is amended by changing
2 Section 10 as follows:

3 (740 ILCS 110/10) (from Ch. 91 1/2, par. 810)

4 Sec. 10. (a) Except as provided herein, in any civil,
5 criminal, administrative, or legislative proceeding, or in any
6 proceeding preliminary thereto, a recipient, and a therapist on
7 behalf and in the interest of a recipient, has the privilege to
8 refuse to disclose and to prevent the disclosure of the
9 recipient's record or communications.

10 (1) Records and communications may be disclosed in a
11 civil, criminal or administrative proceeding in which the
12 recipient introduces his mental condition or any aspect of
13 his services received for such condition as an element of
14 his claim or defense, if and only to the extent the court
15 in which the proceedings have been brought, or, in the case
16 of an administrative proceeding, the court to which an
17 appeal or other action for review of an administrative
18 determination may be taken, finds, after in camera
19 examination of testimony or other evidence, that it is
20 relevant, probative, not unduly prejudicial or
21 inflammatory, and otherwise clearly admissible; that other
22 satisfactory evidence is demonstrably unsatisfactory as
23 evidence of the facts sought to be established by such
24 evidence; and that disclosure is more important to the
25 interests of substantial justice than protection from

1 injury to the therapist-recipient relationship or to the
2 recipient or other whom disclosure is likely to harm.
3 Except in a criminal proceeding in which the recipient, who
4 is accused in that proceeding, raises the defense of
5 insanity, no record or communication between a therapist
6 and a recipient shall be deemed relevant for purposes of
7 this subsection, except the fact of treatment, the cost of
8 services and the ultimate diagnosis unless the party
9 seeking disclosure of the communication clearly
10 establishes in the trial court a compelling need for its
11 production. However, for purposes of this Act, in any
12 action brought or defended under the Illinois Marriage and
13 Dissolution of Marriage Act, or in any action in which pain
14 and suffering is an element of the claim, mental condition
15 shall not be deemed to be introduced merely by making such
16 claim and shall be deemed to be introduced only if the
17 recipient or a witness on his behalf first testifies
18 concerning the record or communication.

19 (2) Records or communications may be disclosed in a
20 civil proceeding after the recipient's death when the
21 recipient's physical or mental condition has been
22 introduced as an element of a claim or defense by any party
23 claiming or defending through or as a beneficiary of the
24 recipient, provided the court finds, after in camera
25 examination of the evidence, that it is relevant,
26 probative, and otherwise clearly admissible; that other

1 satisfactory evidence is not available regarding the facts
2 sought to be established by such evidence; and that
3 disclosure is more important to the interests of
4 substantial justice than protection from any injury which
5 disclosure is likely to cause.

6 (3) In the event of a claim made or an action filed by
7 a recipient, or, following the recipient's death, by any
8 party claiming as a beneficiary of the recipient for injury
9 caused in the course of providing services to such
10 recipient, the therapist and other persons whose actions
11 are alleged to have been the cause of injury may disclose
12 pertinent records and communications to an attorney or
13 attorneys engaged to render advice about and to provide
14 representation in connection with such matter and to
15 persons working under the supervision of such attorney or
16 attorneys, and may testify as to such records or
17 communication in any administrative, judicial or discovery
18 proceeding for the purpose of preparing and presenting a
19 defense against such claim or action.

20 (4) Records and communications made to or by a
21 therapist in the course of examination ordered by a court
22 for good cause shown may, if otherwise relevant and
23 admissible, be disclosed in a civil, criminal, or
24 administrative proceeding in which the recipient is a party
25 or in appropriate pretrial proceedings, provided such
26 court has found that the recipient has been as adequately

1 and as effectively as possible informed before submitting
2 to such examination that such records and communications
3 would not be considered confidential or privileged. Such
4 records and communications shall be admissible only as to
5 issues involving the recipient's physical or mental
6 condition and only to the extent that these are germane to
7 such proceedings.

8 (5) Records and communications may be disclosed in a
9 proceeding under the Probate Act of 1975, to determine a
10 recipient's competency or need for guardianship, provided
11 that the disclosure is made only with respect to that
12 issue.

13 (6) Records and communications may be disclosed to a
14 court-appointed therapist, psychologist, or psychiatrist
15 for use in determining a person's fitness to stand trial if
16 the records were made within the 180-day period immediately
17 preceding the date of the therapist's, psychologist's or
18 psychiatrist's court appointment. These records and
19 communications shall be admissible only as to the issue of
20 the person's fitness to stand trial. Records and
21 communications may be disclosed when such are made during
22 treatment which the recipient is ordered to undergo to
23 render him fit to stand trial on a criminal charge,
24 provided that the disclosure is made only with respect to
25 the issue of fitness to stand trial.

26 (7) Records and communications of the recipient may be

1 disclosed in any civil or administrative proceeding
2 involving the validity of or benefits under a life,
3 accident, health or disability insurance policy or
4 certificate, or Health Care Service Plan Contract,
5 insuring the recipient, but only if and to the extent that
6 the recipient's mental condition, or treatment or services
7 in connection therewith, is a material element of any claim
8 or defense of any party, provided that information sought
9 or disclosed shall not be redisclosed except in connection
10 with the proceeding in which disclosure is made.

11 (8) Records or communications may be disclosed when
12 such are relevant to a matter in issue in any action
13 brought under this Act and proceedings preliminary
14 thereto, provided that any information so disclosed shall
15 not be utilized for any other purpose nor be redisclosed
16 except in connection with such action or preliminary
17 proceedings.

18 (9) Records and communications of the recipient may be
19 disclosed in investigations of and trials for homicide when
20 the disclosure relates directly to the fact or immediate
21 circumstances of the homicide.

22 (10) Records and communications of a deceased
23 recipient shall be disclosed to a coroner conducting a
24 preliminary investigation into the recipient's death under
25 Section 3-3013 of the Counties Code.

26 (11) Records and communications of a recipient shall be

1 disclosed in a proceeding where a petition or motion is
2 filed under the Juvenile Court Act of 1987 and the
3 recipient is named as a parent, guardian, or legal
4 custodian of a minor who is the subject of a petition for
5 wardship as described in Section 2-3 of that Act or a minor
6 who is the subject of a petition for wardship as described
7 in Section 2-4 of that Act alleging the minor is abused,
8 neglected, or dependent or the recipient is named as a
9 parent of a child who is the subject of a petition,
10 supplemental petition, or motion to appoint a guardian with
11 the power to consent to adoption under Section 2-29 of the
12 Juvenile Court Act of 1987.

13 (12) Records and communications of a recipient may be
14 disclosed when disclosure is necessary to collect sums or
15 receive third party payment representing charges for
16 mental health or developmental disabilities services
17 provided by a therapist or agency to a recipient; however,
18 disclosure shall be limited to information needed to pursue
19 collection, and the information so disclosed may not be
20 used for any other purposes nor may it be redisclosed
21 except in connection with collection activities. Whenever
22 records are disclosed pursuant to this subdivision (12),
23 the recipient of the records shall be advised in writing
24 that any person who discloses mental health records and
25 communications in violation of this Act may be subject to
26 civil liability pursuant to Section 15 of this Act or to

1 criminal penalties pursuant to Section 16 of this Act or
2 both.

3 (b) Before a disclosure is made under subsection (a), any
4 party to the proceeding or any other interested person may
5 request an in camera review of the record or communications to
6 be disclosed. The court or agency conducting the proceeding may
7 hold an in camera review on its own motion. When, contrary to
8 the express wish of the recipient, the therapist asserts a
9 privilege on behalf and in the interest of a recipient, the
10 court may require that the therapist, in an in camera hearing,
11 establish that disclosure is not in the best interest of the
12 recipient. The court or agency may prevent disclosure or limit
13 disclosure to the extent that other admissible evidence is
14 sufficient to establish the facts in issue. The court or agency
15 may enter such orders as may be necessary in order to protect
16 the confidentiality, privacy, and safety of the recipient or of
17 other persons. Any order to disclose or to not disclose shall
18 be considered a final order for purposes of appeal and shall be
19 subject to interlocutory appeal.

20 (c) A recipient's records and communications may be
21 disclosed to a duly authorized committee, commission or
22 subcommittee of the General Assembly which possesses subpoena
23 and hearing powers, upon a written request approved by a
24 majority vote of the committee, commission or subcommittee
25 members. The committee, commission or subcommittee may request
26 records only for the purposes of investigating or studying

1 possible violations of recipient rights. The request shall
2 state the purpose for which disclosure is sought.

3 The facility shall notify the recipient, or his guardian,
4 and therapist in writing of any disclosure request under this
5 subsection within 5 business days after such request. Such
6 notification shall also inform the recipient, or guardian, and
7 therapist of their right to object to the disclosure within 10
8 business days after receipt of the notification and shall
9 include the name, address and telephone number of the
10 committee, commission or subcommittee member or staff person
11 with whom an objection shall be filed. If no objection has been
12 filed within 15 business days after the request for disclosure,
13 the facility shall disclose the records and communications to
14 the committee, commission or subcommittee. If an objection has
15 been filed within 15 business days after the request for
16 disclosure, the facility shall disclose the records and
17 communications only after the committee, commission or
18 subcommittee has permitted the recipient, guardian or
19 therapist to present his objection in person before it and has
20 renewed its request for disclosure by a majority vote of its
21 members.

22 Disclosure under this subsection shall not occur until all
23 personally identifiable data of the recipient and provider are
24 removed from the records and communications. Disclosure under
25 this subsection shall not occur in any public proceeding.

26 (d) No party to any proceeding described under paragraphs

1 (1), (2), (3), (4), (7), or (8) of subsection (a) of this
2 Section, nor his or her attorney, shall serve a subpoena
3 seeking to obtain access to records or communications under
4 this Act unless the subpoena is accompanied by a written order
5 issued by a judge or by the written consent under Section 5 of
6 this Act of the person whose records are being sought,
7 authorizing the disclosure of the records or the issuance of
8 the subpoena. No such written order shall be issued without
9 written notice of the motion to the recipient and the treatment
10 provider. Prior to issuance of the order, each party or other
11 person entitled to notice shall be permitted an opportunity to
12 be heard pursuant to subsection (b) of this Section. In the
13 absence of the written consent under Section 5 of this Act of
14 the person whose records are being sought, no person shall
15 comply with a subpoena for records or communications under this
16 Act, unless the subpoena is accompanied by a written order
17 authorizing the issuance of the subpoena or the disclosure of
18 the records. Each subpoena issued by a court or administrative
19 agency or served on any person pursuant to this subsection (d)
20 shall include the following language: "No person shall comply
21 with a subpoena for mental health records or communications
22 pursuant to Section 10 of the Mental Health and Developmental
23 Disabilities Confidentiality Act, 740 ILCS 110/10, unless the
24 subpoena is accompanied by a written order that authorizes the
25 issuance of the subpoena and the disclosure of records or
26 communications or by the written consent under Section 5 of

1 that Act of the person whose records are being sought."

2 (e) When a person has been transported by a peace officer
3 to a mental health facility, then upon the request of a peace
4 officer, if the person is allowed to leave the mental health
5 facility within 48 hours of arrival, excluding Saturdays,
6 Sundays, and holidays, the facility director shall notify the
7 local law enforcement authority prior to the release of the
8 person. The local law enforcement authority may re-disclose the
9 information as necessary to alert the appropriate enforcement
10 or prosecuting authority.

11 (f) A recipient's records and communications shall be
12 disclosed to the Inspector General of the Department of Human
13 Services within 10 business days of a request by the Inspector
14 General (i) in the course of an investigation authorized by the
15 Department of Human Services Act and applicable rule or (ii)
16 during the course of an assessment authorized by the Abuse of
17 Adults with Disabilities Intervention Act and applicable rule.
18 The request shall be in writing and signed by the Inspector
19 General or his or her designee. The request shall state the
20 purpose for which disclosure is sought. Any person who
21 knowingly and willfully refuses to comply with such a request
22 is guilty of a Class A misdemeanor. A recipient's records and
23 communications shall also be disclosed pursuant to subsection
24 (s) of Section 1-17 of the Department of Human Services Act in
25 testimony at Health Care Worker Registry ~~health care worker~~
26 ~~registry~~ hearings or preliminary proceedings when such are

1 relevant to the matter in issue, provided that any information
2 so disclosed shall not be utilized for any other purpose nor be
3 redisclosed except in connection with such action or
4 preliminary proceedings.

5 (Source: P.A. 98-221, eff. 1-1-14; 98-908, eff. 1-1-15; 99-78,
6 eff. 7-20-15.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 1305/1-17
4 20 ILCS 1705/7.3
5 210 ILCS 45/3-206 from Ch. 111 1/2, par. 4153-206
6 210 ILCS 45/3-206.01 from Ch. 111 1/2, par. 4153-206.01
7 210 ILCS 45/3-206.02 rep.
8 210 ILCS 46/3-206
9 210 ILCS 46/3-206.01
10 210 ILCS 46/3-206.02 rep.
11 210 ILCS 47/3-206
12 210 ILCS 47/3-206.01
13 210 ILCS 47/3-206.02 rep.
14 225 ILCS 46/15
15 225 ILCS 46/25
16 225 ILCS 46/26 new
17 225 ILCS 46/27 new
18 225 ILCS 46/28 new
19 225 ILCS 46/33
20 225 ILCS 46/40
21 225 ILCS 46/75 new
22 740 ILCS 110/10 from Ch. 91 1/2, par. 810