

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

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

22 "Department" means the Department of Public Health.

23 "Direct care" means the provision of nursing care or

1 assistance with feeding, dressing, movement, bathing,  
2 toileting, or other personal needs, including home services as  
3 defined in the Home Health, Home Services, and Home Nursing  
4 Agency Licensing Act. The entity responsible for inspecting and  
5 licensing, certifying, or registering the health care employer  
6 may, by administrative rule, prescribe guidelines for  
7 interpreting this definition with regard to the health care  
8 employers that it licenses.

9 "Director" means the Director of Public Health.

10 "Disqualifying offenses" means those offenses set forth in  
11 Section 25 of this Act.

12 "Employee" means any individual hired, employed, or  
13 retained, whether paid or on a volunteer basis, to which this  
14 Act applies.

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

17 "Fingerprint-based criminal history records check" means a  
18 livescan fingerprint-based criminal history records check  
19 submitted as a fee applicant inquiry in the form and manner  
20 prescribed by the Department of State Police.

21 "Health care employer" means:

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

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

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

- 1 (iii) a long-term care facility;
- 2 (iv) a home health agency, home services agency, or  
3 home nursing agency as defined in the Home Health, Home  
4 Services, and Home Nursing Agency Licensing Act;
- 5 (v) a hospice care program or volunteer hospice  
6 program, as defined in the Hospice Program Licensing  
7 Act;
- 8 (vi) a hospital, as defined in the Hospital  
9 Licensing Act;
- 10 (vii) (blank);
- 11 (viii) a nurse agency, as defined in the Nurse  
12 Agency Licensing Act;
- 13 (ix) a respite care provider, as defined in the  
14 Respite Program Act;
- 15 (ix-a) an establishment licensed under the  
16 Assisted Living and Shared Housing Act;
- 17 (x) a supportive living program, as defined in the  
18 Illinois Public Aid Code;
- 19 (xi) early childhood intervention programs as  
20 described in 59 Ill. Adm. Code 121;
- 21 (xii) the University of Illinois Hospital,  
22 Chicago;
- 23 (xiii) programs funded by the Department on Aging  
24 through the Community Care Program;
- 25 (xiv) programs certified to participate in the  
26 Supportive Living Program authorized pursuant to

1 Section 5-5.01a of the Illinois Public Aid Code;

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

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

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

9 (3) a community integrated living arrangement operated  
10 by a community mental health and developmental service  
11 agency, as defined in the Community-Integrated Living  
12 Arrangements Licensing and Certification Act; or

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

17 "Initiate" means obtaining from a student, applicant, or  
18 employee his or her social security number, demographics, a  
19 disclosure statement, and an authorization for the Department  
20 of Public Health or its designee to request a fingerprint-based  
21 criminal history records check; transmitting this information  
22 electronically to the Department of Public Health; conducting  
23 Internet searches on certain web sites, including without  
24 limitation the Illinois Sex Offender Registry, the Department  
25 of Corrections' Sex Offender Search Engine, the Department of  
26 Corrections' Inmate Search Engine, the Department of

1 Corrections Wanted Fugitives Search Engine, the National Sex  
2 Offender Public Registry, and the List of Excluded Individuals  
3 and Entities database on the website of the Health and Human  
4 Services Office of Inspector General to determine if the  
5 applicant has been adjudicated a sex offender, has been a  
6 prison inmate, or has committed Medicare or Medicaid fraud, or  
7 conducting similar searches as defined by rule; and having the  
8 student, applicant, or employee's fingerprints collected and  
9 transmitted electronically to the Department of State Police.

10 "Livescan vendor" means an entity whose equipment has been  
11 certified by the Department of State Police to collect an  
12 individual's demographics and inkless fingerprints and, in a  
13 manner prescribed by the Department of State Police and the  
14 Department of Public Health, electronically transmit the  
15 fingerprints and required data to the Department of State  
16 Police and a daily file of required data to the Department of  
17 Public Health. The Department of Public Health shall negotiate  
18 a contract with one or more vendors that effectively  
19 demonstrate that the vendor has 2 or more years of experience  
20 transmitting fingerprints electronically to the Department of  
21 State Police and that the vendor can successfully transmit the  
22 required data in a manner prescribed by the Department of  
23 Public Health. Vendor authorization may be further defined by  
24 administrative rule.

25 "Long-term care facility" means a facility licensed by the  
26 State or certified under federal law as a long-term care



1 facility, including without limitation facilities licensed  
2 under the Nursing Home Care Act, the Specialized Mental Health  
3 Rehabilitation Act of 2013, the ID/DD Community Care Act, or  
4 the MC/DD Act, a supportive living facility, an assisted living  
5 establishment, or a shared housing establishment or registered  
6 as a board and care home.

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

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

11 (225 ILCS 46/25)

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

14 (a) A health care employer or long-term care facility may  
15 hire, employ, or retain any individual in a position involving  
16 direct care for clients, patients, or residents, or access to  
17 the living quarters or the financial, medical, or personal  
18 records of clients, patients, or residents who has been  
19 convicted of committing or attempting to commit one or more of  
20 the following offenses only with a waiver described in Section  
21 40: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2,  
22 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,  
23 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50,  
24 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3, 11-9.4-1, 11-9.5,  
25 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3.05,

1 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4,  
2 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1,  
3 12-15, 12-16, 12-19, 12-20.5, 12-21, 12-21.5, 12-21.6, 12-32,  
4 12-33, 12C-5, 12C-10, 16-1, 16-1.3, 16-25, 16A-3, 17-3, 17-56,  
5 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 19-6, 20-1,  
6 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8, 24-3.8, or 33A-2, or  
7 subdivision (a)(4) of Section 11-14.4, or in subsection (a) of  
8 Section 12-3 or subsection (a) or (b) of Section 12-4.4a, of  
9 the Criminal Code of 1961 or the Criminal Code of 2012; those  
10 provided in Section 4 of the Wrongs to Children Act; those  
11 provided in Section 53 of the Criminal Jurisprudence Act; those  
12 defined in subsection (c), (d), (e), (f), or (g) of Section 5  
13 or Section 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those  
14 defined in the Methamphetamine Control and Community  
15 Protection Act; ~~or~~ those defined in Sections 401, 401.1, 404,  
16 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances  
17 Act; subsection (a) of Sections 3.01, Section 3.02, or Section  
18 3.03 of the Humane Care for Animals Act; or Section 4 of the  
19 Narcotics Profit Forfeiture Act.

20 (a-1) A health care employer or long-term care facility may  
21 hire, employ, or retain any individual in a position involving  
22 direct care for clients, patients, or residents, or access to  
23 the living quarters or the financial, medical, or personal  
24 records of clients, patients, or residents who has been  
25 convicted of committing or attempting to commit one or more of  
26 the following offenses only with a waiver described in Section

1 40: those offenses defined in Section 12-3.3, 12-4.2-5, 16-2,  
2 16-30, 16G-15, 16G-20, 17-33, 17-34, 17-36, 17-44, 18-5,  
3 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3, or  
4 subsection (b) of Section 17-32, subsection (b) of Section  
5 18-1, or subsection (b) of Section 20-1, of the Criminal Code  
6 of 1961 or the Criminal Code of 2012; Section 4, 5, 6, 8, or  
7 17.02 of the Illinois Credit Card and Debit Card Act; or  
8 Section 11-9.1A of the Criminal Code of 1961 or the Criminal  
9 Code of 2012 or Section 5.1 of the Wrongs to Children Act; or  
10 (ii) violated Section 50-50 of the Nurse Practice Act.

11 A health care employer is not required to retain an  
12 individual in a position with duties involving direct care for  
13 clients, patients, or residents, and no long-term care facility  
14 is required to retain an individual in a position with duties  
15 that involve or may involve contact with residents or access to  
16 the living quarters or the financial, medical, or personal  
17 records of residents, who has been convicted of committing or  
18 attempting to commit one or more of the offenses enumerated in  
19 this subsection.

20 (b) A health care employer shall not hire, employ, or  
21 retain, whether paid or on a volunteer basis, any individual in  
22 a position with duties involving direct care of clients,  
23 patients, or residents, and no long-term care facility shall  
24 knowingly hire, employ, or retain, whether paid or on a  
25 volunteer basis, any individual in a position with duties that  
26 involve or may involve contact with residents or access to the

1 living quarters or the financial, medical, or personal records  
2 of residents, if the health care employer becomes aware that  
3 the individual has been convicted in another state of  
4 committing or attempting to commit an offense that has the same  
5 or similar elements as an offense listed in subsection (a) or  
6 (a-1), as verified by court records, records from a state  
7 agency, or an FBI criminal history record check, unless the  
8 applicant or employee obtains a waiver pursuant to Section 40  
9 of this Act. This shall not be construed to mean that a health  
10 care employer has an obligation to conduct a criminal history  
11 records check in other states in which an employee has resided.

12 (c) A health care employer shall not hire, employ, or  
13 retain, whether paid or on a volunteer basis, any individual in  
14 a position with duties involving direct care of clients,  
15 patients, or residents, who has a finding by the Department of  
16 abuse, neglect, misappropriation of property, or theft denoted  
17 on the Health Care Worker Registry.

18 (d) A health care employer shall not hire, employ, or  
19 retain, whether paid or on a volunteer basis, any individual in  
20 a position with duties involving direct care of clients,  
21 patients, or residents if the individual has a verified and  
22 substantiated finding of abuse, neglect, or financial  
23 exploitation, as identified within the Adult Protective  
24 Service Registry established under Section 7.5 of the Adult  
25 Protective Services Act.

26 (e) A health care employer shall not hire, employ, or

1 retain, whether paid or on a volunteer basis, any individual in  
2 a position with duties involving direct care of clients,  
3 patients, or residents who has a finding by the Department of  
4 Human Services of physical or sexual abuse, financial  
5 exploitation, or egregious neglect of an individual denoted on  
6 the Health Care Worker Registry.

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

8 (225 ILCS 46/26 new)

9 Sec. 26. Health Care Worker Registry. The Department shall  
10 establish and maintain the Health Care Worker Registry, a  
11 registry of all individuals who (i) have satisfactorily  
12 completed the training required by Section 3-206 of the Nursing  
13 Home Care Act, Section 3-206 of the MC/DD Act, or Section 3-206  
14 of the ID/DD Community Care Act, (ii) have begun a current  
15 course of training as set forth in Section 3-206 of the Nursing  
16 Home Care Act, Section 3-206 of the MC/DD Act, or Section 3-206  
17 of the ID/DD Community Care Act, or (iii) are otherwise acting  
18 as a nursing assistant, habilitation aide, home health aide, or  
19 child care aide. The Health Care Worker Registry shall include  
20 the individual's name, current address, and Social Security  
21 number, the date and location of the training course completed  
22 by the individual, whether the individual has any of the  
23 disqualifying convictions listed in Section 25 of the Health  
24 Care Worker Background Check Act from the date of the training  
25 course completed by the individual, and the date of the

1 individual's last criminal records check. Any individual  
2 placed on the Health Care Worker Registry is required to inform  
3 the Department of any change of address within 30 days after  
4 the effective date of the change of address.

5 The Department shall include in the Health Care Worker  
6 Registry established under this Section the information  
7 contained in the registries established under Section 3-206.01  
8 of the Nursing Home Care Act, Section 3-206.01 of the MC/DD  
9 Act, and Section 3-206.01 of the ID/DD Community Care Act.

10 (225 ILCS 46/27 new)

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

13 (a) If the Department finds that an employee or former  
14 employee has abused or neglected a resident or misappropriated  
15 property of a resident, then the Department shall notify the  
16 employee or individual of this finding by certified mail sent  
17 to the address contained in the Health Care Worker Registry.  
18 The notice shall give the employee or individual an opportunity  
19 to contest the finding in a hearing before the Department or to  
20 submit a written response to the findings in lieu of requesting  
21 a hearing. As used in this subsection, "abuse" and "neglect"  
22 shall have the meanings provided in the Nursing Home Care Act,  
23 except that the term "resident" as used in those definitions  
24 shall have the meaning provided in this Act. As used in this  
25 subsection, "misappropriate property of a resident" shall have

1 the meaning provided to "misappropriation of a resident's  
2 property" in the Nursing Home Care Act, except that the term  
3 "resident" as used in that definition shall have the meaning  
4 provided in this Act.

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

21 (c) The Department shall document criminal history records  
22 check results pursuant to the requirements of this Act.

23 (d) After the designation of neglect or other applicable  
24 finding as set forth by rule, on the Health Care Worker  
25 Registry, made pursuant to this Section, an employee, or former  
26 employee, may petition the Department for removal of a

1 designation of neglect on the Health Care Worker Registry,  
2 after durations set forth within the Department's notice made  
3 pursuant to subsections (a) and (b) of this Section. Upon  
4 receipt of a petition, the Department may remove the  
5 designation for a finding of neglect after no less than one  
6 year, or the designation of applicable findings set forth by  
7 rule of an employee, or former employee, for minimum durations  
8 set forth by the Department, on the Health Care Worker Registry  
9 unless the Department determines that removal of designation is  
10 not in the public interest. The Department shall set forth by  
11 rule the discretionary factors by which designations of  
12 employees or former employees may be removed.

13 (225 ILCS 46/33)

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

15 (a) A fingerprint-based criminal history records check is  
16 not required for health care employees who have been  
17 continuously employed by a health care employer since October  
18 1, 2007, have met the requirements for criminal history  
19 background checks prior to October 1, 2007, and have no  
20 disqualifying convictions or requested and received a waiver of  
21 those disqualifying convictions. These employees shall be  
22 retained on the Health Care Worker Registry as long as they  
23 remain active. Nothing in this subsection (a) shall be  
24 construed to prohibit a health care employer from initiating a  
25 criminal history records check for these employees. Should

1 these employees seek a new position with a different health  
2 care employer, then a fingerprint-based criminal history  
3 records check shall be required.

4 (b) On October 1, 2007 or as soon thereafter as is  
5 reasonably practical, in the discretion of the Director of  
6 Public Health, and thereafter, any student, applicant, or  
7 employee who desires to be included on the Department of Public  
8 Health's Health Care Worker Registry shall ~~must~~ authorize the  
9 Department of Public Health or its designee to request a  
10 fingerprint-based criminal history records check to determine  
11 if the individual has a conviction for a disqualifying offense.  
12 This authorization shall allow the Department of Public Health  
13 to request and receive information and assistance from any  
14 State or ~~local~~ governmental agency. Each individual shall  
15 submit his or her fingerprints to the Department of State  
16 Police in an electronic format that complies with the form and  
17 manner for requesting and furnishing criminal history record  
18 information prescribed by the Department of State Police. The  
19 fingerprints submitted under this Section shall be checked  
20 against the fingerprint records now and hereafter filed in the  
21 Department of State Police criminal history record databases.  
22 The Department of State Police shall charge a fee for  
23 conducting the criminal history records check, which shall not  
24 exceed the actual cost of the records check. The livescan  
25 vendor may act as the designee for individuals, educational  
26 entities, or health care employers in the collection of

1 Department of State Police fees and deposit those fees into the  
2 State Police Services Fund. The Department of State Police  
3 shall provide information concerning any criminal convictions,  
4 now or hereafter filed, against the individual.

5 (c) On October 1, 2007 or as soon thereafter as is  
6 reasonably practical, in the discretion of the Director of  
7 Public Health, and thereafter, an educational entity, other  
8 than a secondary school, conducting a nurse aide training  
9 program shall ~~must~~ initiate a fingerprint-based criminal  
10 history records check required by this Act ~~requested by the~~  
11 ~~Department of Public Health~~ prior to entry of an individual  
12 into the training program.

13 (d) On October 1, 2007 or as soon thereafter as is  
14 reasonably practical, in the discretion of the Director of  
15 Public Health, and thereafter, a health care employer who makes  
16 a conditional offer of employment to an applicant for a  
17 position as an employee shall ~~must~~ initiate a fingerprint-based  
18 criminal history record check, requested by the Department of  
19 Public Health, on the applicant, if such a background check has  
20 not been previously conducted.

21 (e) When initiating a background check requested by the  
22 Department of Public Health, an educational entity or health  
23 care employer shall electronically submit to the Department of  
24 Public Health the student's, applicant's, or employee's social  
25 security number, demographics, disclosure, and authorization  
26 information in a format prescribed by the Department of Public

1 Health within 2 working days after the authorization is  
2 secured. The student, applicant, or employee shall ~~must~~ have  
3 his or her fingerprints collected electronically and  
4 transmitted to the Department of State Police within 10 working  
5 days. The educational entity or health care employer shall ~~must~~  
6 transmit all necessary information and fees to the livescan  
7 vendor and Department of State Police within 10 working days  
8 after receipt of the authorization. This information and the  
9 results of the criminal history record checks shall be  
10 maintained by the Department of Public Health's Health Care  
11 Worker Registry.

12 (f) A direct care employer may initiate a fingerprint-based  
13 background check required by this Act ~~requested by the~~  
14 ~~Department of Public Health~~ for any of its employees, but may  
15 not use this process to initiate background checks for  
16 residents. The results of any fingerprint-based background  
17 check that is initiated with the Department as the requester  
18 ~~requestor~~ shall be entered in the Health Care Worker Registry.

19 (g) As long as the employee has had a fingerprint-based  
20 criminal history record check required by this Act ~~requested by~~  
21 ~~the Department of Public Health~~ and stays active on the Health  
22 Care Worker Registry, no further criminal history record checks  
23 are required ~~shall be deemed necessary~~, as the Department of  
24 State Police shall notify the Department of Public Health of  
25 any additional convictions associated with the fingerprints  
26 previously submitted. Health care employers shall ~~are required~~

1 ~~to~~ check the Health Care Worker Registry before hiring an  
2 employee to determine that the individual has had a  
3 fingerprint-based record check required by this Act ~~requested~~  
4 ~~by the Department of Public Health~~ and has no disqualifying  
5 convictions or has been granted a waiver pursuant to Section 40  
6 of this Act. If the individual has not had such a background  
7 check or is not active on the Health Care Worker Registry, then  
8 the health care employer shall ~~must~~ initiate a  
9 fingerprint-based record check requested by the Department of  
10 Public Health. If an individual is inactive on the Health Care  
11 Worker Registry, that individual is prohibited from being hired  
12 to work as a certified nursing assistant ~~nurse-aide~~ if, since  
13 the individual's most recent completion of a competency test,  
14 there has been a period of 24 consecutive months during which  
15 the individual has not provided nursing or nursing-related  
16 services for pay. If the individual can provide proof of having  
17 retained his or her certification by not having a  
18 24-consecutive-month ~~24 consecutive month~~ break in service for  
19 pay, he or she may be hired as a certified nursing assistant  
20 ~~nurse-aide~~ and that employment information shall be entered  
21 into the Health Care Worker Registry.

22 (h) On October 1, 2007 or as soon thereafter as is  
23 reasonably practical, in the discretion of the Director of  
24 Public Health, and thereafter, if the Department of State  
25 Police notifies the Department of Public Health that an  
26 employee has a new conviction of a disqualifying offense, based

1 upon the fingerprints that were previously submitted, then (i)  
2 the Health Care Worker Registry shall notify the employee's  
3 last known employer of the offense, (ii) a record of the  
4 employee's disqualifying offense shall be entered on the Health  
5 Care Worker Registry, and (iii) the individual shall no longer  
6 be eligible to work as an employee unless he or she obtains a  
7 waiver pursuant to Section 40 of this Act.

8 (i) On October 1, 2007, or as soon thereafter, in the  
9 discretion of the Director of Public Health, as is reasonably  
10 practical, and thereafter, each direct care employer or its  
11 designee shall ~~must~~ provide an employment verification for each  
12 employee no less than annually. The direct care employer or its  
13 designee shall ~~must~~ log into the Health Care Worker Registry  
14 through a secure login. The health care employer or its  
15 designee shall ~~must~~ indicate employment and termination dates  
16 within 30 days after hiring or terminating an employee, as well  
17 as the employment category and type. Failure to comply with  
18 this subsection (i) constitutes a licensing violation. A ~~For~~  
19 ~~health care employers that are not licensed or certified, a~~  
20 fine of up to \$500 may be imposed for failure to maintain these  
21 records. This information shall be used by the Department of  
22 Public Health to notify the last known employer of any  
23 disqualifying offenses that are reported by the Department of  
24 State Police.

25 (j) ~~The Department of Public Health shall notify each~~  
26 ~~health care employer or long term care facility inquiring as to~~



1 ~~the information on the Health Care Worker Registry if the~~  
2 ~~applicant or employee listed on the registry has a~~  
3 ~~disqualifying offense and is therefore ineligible to work.~~ In  
4 the event that an applicant or employee has a waiver for one or  
5 more disqualifying offenses pursuant to Section 40 of this Act  
6 and he or she is otherwise eligible to work, the Health Care  
7 Worker Registry Department of Public Health shall indicate  
8 ~~report~~ that the applicant or employee is eligible to work and  
9 that additional information is available on the Health Care  
10 Worker Registry. The Health Care Worker Registry Department may  
11 indicate ~~report~~ that the applicant or employee has received a  
12 waiver.

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

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

21 (2) That the student, applicant, or employee has a  
22 right to obtain a copy of the criminal records report that  
23 indicates a conviction for a disqualifying offense and  
24 challenge the accuracy and completeness of the report  
25 through an established Department of State Police  
26 procedure of Access and Review.

1           (3) That the applicant, if hired conditionally, may be  
2 terminated if the criminal records report indicates that  
3 the applicant has a record of a conviction of any of the  
4 criminal offenses enumerated in Section 25, unless the  
5 applicant obtains a waiver pursuant to Section 40 of this  
6 Act.

7           (4) That the applicant, if not hired conditionally,  
8 shall not be hired if the criminal records report indicates  
9 that the applicant has a record of a conviction of any of  
10 the criminal offenses enumerated in Section 25, unless the  
11 applicant obtains a waiver pursuant to Section 40 of this  
12 Act.

13           (5) That the employee shall be terminated if the  
14 criminal records report indicates that the employee has a  
15 record of a conviction of any of the criminal offenses  
16 enumerated in Section 25.

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

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

26           (m) The Department of Public Health or an entity

1 responsible for inspecting, licensing, certifying, or  
2 registering the health care employer or long-term care facility  
3 shall be immune from liability for notices given based on the  
4 results of a fingerprint-based criminal history record check.

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

6 (225 ILCS 46/40)

7 Sec. 40. Waiver.

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

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

13 (2) providing a written explanation of each conviction  
14 to include (i) what happened, (ii) how many years have  
15 passed since the offense, (iii) the individuals involved,  
16 (iv) the age of the applicant at the time of the offense,  
17 and (v) any other circumstances surrounding the offense;  
18 and

19 (3) providing official documentation showing that all  
20 fines have been paid, if applicable and except for in the  
21 instance of payment of court-imposed fines or restitution  
22 in which the applicant is adhering to a payment schedule,  
23 and the date probation or parole was satisfactorily  
24 completed, if applicable.

25 (b) The applicant may, but is not required to, submit

1 employment and character references and any other evidence  
2 demonstrating the ability of the applicant or employee to  
3 perform the employment responsibilities competently and  
4 evidence that the applicant or employee does not pose a threat  
5 to the health or safety of residents, patients, or clients.

6 (c) The Department of Public Health may, at the discretion  
7 of the Director of Public Health, grant a waiver to an  
8 applicant, student, or employee listed on the Health Care  
9 Worker Registry ~~registry~~. The Department of Public Health shall  
10 act upon the waiver request within 30 days of receipt of all  
11 necessary information, as defined by rule. The Department of  
12 Public Health shall send an applicant, student, or employee  
13 written notification of its decision whether to grant a waiver,  
14 including listing the specific disqualifying offenses for  
15 which the waiver is being granted or denied. The Department  
16 shall issue additional copies of this written notification upon  
17 the applicant's, student's, or employee's request.

18 (d) An individual shall not be employed from the time that  
19 the employer receives a notification from the Department of  
20 Public Health based upon the results of a fingerprint-based  
21 criminal history records check containing disqualifying  
22 conditions until the time that the individual receives a  
23 waiver.

24 (e) The entity responsible for inspecting, licensing,  
25 certifying, or registering the health care employer and the  
26 Department of Public Health shall be immune from liability for

1 any waivers granted under this Section.

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

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

6 (225 ILCS 46/75 new)

7 Sec. 75. Rulemaking. The Department shall have the  
8 authority to adopt administrative rules and procedures to carry  
9 out the purpose of this Act. The provisions of the Illinois  
10 Administrative Procedure Act are hereby expressly adopted and  
11 shall apply to all administrative rules and procedures of the  
12 Department under this Act.

13 Section 50. The Mental Health and Developmental  
14 Disabilities Confidentiality Act is amended by changing  
15 Section 10 as follows:

16 (740 ILCS 110/10) (from Ch. 91 1/2, par. 810)

17 Sec. 10. (a) Except as provided herein, in any civil,  
18 criminal, administrative, or legislative proceeding, or in any  
19 proceeding preliminary thereto, a recipient, and a therapist on  
20 behalf and in the interest of a recipient, has the privilege to  
21 refuse to disclose and to prevent the disclosure of the  
22 recipient's record or communications.

23 (1) Records and communications may be disclosed in a

1 civil, criminal or administrative proceeding in which the  
2 recipient introduces his mental condition or any aspect of  
3 his services received for such condition as an element of  
4 his claim or defense, if and only to the extent the court  
5 in which the proceedings have been brought, or, in the case  
6 of an administrative proceeding, the court to which an  
7 appeal or other action for review of an administrative  
8 determination may be taken, finds, after in camera  
9 examination of testimony or other evidence, that it is  
10 relevant, probative, not unduly prejudicial or  
11 inflammatory, and otherwise clearly admissible; that other  
12 satisfactory evidence is demonstrably unsatisfactory as  
13 evidence of the facts sought to be established by such  
14 evidence; and that disclosure is more important to the  
15 interests of substantial justice than protection from  
16 injury to the therapist-recipient relationship or to the  
17 recipient or other whom disclosure is likely to harm.  
18 Except in a criminal proceeding in which the recipient, who  
19 is accused in that proceeding, raises the defense of  
20 insanity, no record or communication between a therapist  
21 and a recipient shall be deemed relevant for purposes of  
22 this subsection, except the fact of treatment, the cost of  
23 services and the ultimate diagnosis unless the party  
24 seeking disclosure of the communication clearly  
25 establishes in the trial court a compelling need for its  
26 production. However, for purposes of this Act, in any

1 action brought or defended under the Illinois Marriage and  
2 Dissolution of Marriage Act, or in any action in which pain  
3 and suffering is an element of the claim, mental condition  
4 shall not be deemed to be introduced merely by making such  
5 claim and shall be deemed to be introduced only if the  
6 recipient or a witness on his behalf first testifies  
7 concerning the record or communication.

8 (2) Records or communications may be disclosed in a  
9 civil proceeding after the recipient's death when the  
10 recipient's physical or mental condition has been  
11 introduced as an element of a claim or defense by any party  
12 claiming or defending through or as a beneficiary of the  
13 recipient, provided the court finds, after in camera  
14 examination of the evidence, that it is relevant,  
15 probative, and otherwise clearly admissible; that other  
16 satisfactory evidence is not available regarding the facts  
17 sought to be established by such evidence; and that  
18 disclosure is more important to the interests of  
19 substantial justice than protection from any injury which  
20 disclosure is likely to cause.

21 (3) In the event of a claim made or an action filed by  
22 a recipient, or, following the recipient's death, by any  
23 party claiming as a beneficiary of the recipient for injury  
24 caused in the course of providing services to such  
25 recipient, the therapist and other persons whose actions  
26 are alleged to have been the cause of injury may disclose

1       pertinent records and communications to an attorney or  
2       attorneys engaged to render advice about and to provide  
3       representation in connection with such matter and to  
4       persons working under the supervision of such attorney or  
5       attorneys, and may testify as to such records or  
6       communication in any administrative, judicial or discovery  
7       proceeding for the purpose of preparing and presenting a  
8       defense against such claim or action.

9           (4) Records and communications made to or by a  
10       therapist in the course of examination ordered by a court  
11       for good cause shown may, if otherwise relevant and  
12       admissible, be disclosed in a civil, criminal, or  
13       administrative proceeding in which the recipient is a party  
14       or in appropriate pretrial proceedings, provided such  
15       court has found that the recipient has been as adequately  
16       and as effectively as possible informed before submitting  
17       to such examination that such records and communications  
18       would not be considered confidential or privileged. Such  
19       records and communications shall be admissible only as to  
20       issues involving the recipient's physical or mental  
21       condition and only to the extent that these are germane to  
22       such proceedings.

23           (5) Records and communications may be disclosed in a  
24       proceeding under the Probate Act of 1975, to determine a  
25       recipient's competency or need for guardianship, provided  
26       that the disclosure is made only with respect to that



1 issue.

2 (6) Records and communications may be disclosed to a  
3 court-appointed therapist, psychologist, or psychiatrist  
4 for use in determining a person's fitness to stand trial if  
5 the records were made within the 180-day period immediately  
6 preceding the date of the therapist's, psychologist's or  
7 psychiatrist's court appointment. These records and  
8 communications shall be admissible only as to the issue of  
9 the person's fitness to stand trial. Records and  
10 communications may be disclosed when such are made during  
11 treatment which the recipient is ordered to undergo to  
12 render him fit to stand trial on a criminal charge,  
13 provided that the disclosure is made only with respect to  
14 the issue of fitness to stand trial.

15 (7) Records and communications of the recipient may be  
16 disclosed in any civil or administrative proceeding  
17 involving the validity of or benefits under a life,  
18 accident, health or disability insurance policy or  
19 certificate, or Health Care Service Plan Contract,  
20 insuring the recipient, but only if and to the extent that  
21 the recipient's mental condition, or treatment or services  
22 in connection therewith, is a material element of any claim  
23 or defense of any party, provided that information sought  
24 or disclosed shall not be redisclosed except in connection  
25 with the proceeding in which disclosure is made.

26 (8) Records or communications may be disclosed when

1 such are relevant to a matter in issue in any action  
2 brought under this Act and proceedings preliminary  
3 thereto, provided that any information so disclosed shall  
4 not be utilized for any other purpose nor be redisclosed  
5 except in connection with such action or preliminary  
6 proceedings.

7 (9) Records and communications of the recipient may be  
8 disclosed in investigations of and trials for homicide when  
9 the disclosure relates directly to the fact or immediate  
10 circumstances of the homicide.

11 (10) Records and communications of a deceased  
12 recipient shall be disclosed to a coroner conducting a  
13 preliminary investigation into the recipient's death under  
14 Section 3-3013 of the Counties Code.

15 (11) Records and communications of a recipient shall be  
16 disclosed in a proceeding where a petition or motion is  
17 filed under the Juvenile Court Act of 1987 and the  
18 recipient is named as a parent, guardian, or legal  
19 custodian of a minor who is the subject of a petition for  
20 wardship as described in Section 2-3 of that Act or a minor  
21 who is the subject of a petition for wardship as described  
22 in Section 2-4 of that Act alleging the minor is abused,  
23 neglected, or dependent or the recipient is named as a  
24 parent of a child who is the subject of a petition,  
25 supplemental petition, or motion to appoint a guardian with  
26 the power to consent to adoption under Section 2-29 of the

1 Juvenile Court Act of 1987.

2 (12) Records and communications of a recipient may be  
3 disclosed when disclosure is necessary to collect sums or  
4 receive third party payment representing charges for  
5 mental health or developmental disabilities services  
6 provided by a therapist or agency to a recipient; however,  
7 disclosure shall be limited to information needed to pursue  
8 collection, and the information so disclosed may not be  
9 used for any other purposes nor may it be redisclosed  
10 except in connection with collection activities. Whenever  
11 records are disclosed pursuant to this subdivision (12),  
12 the recipient of the records shall be advised in writing  
13 that any person who discloses mental health records and  
14 communications in violation of this Act may be subject to  
15 civil liability pursuant to Section 15 of this Act or to  
16 criminal penalties pursuant to Section 16 of this Act or  
17 both.

18 (b) Before a disclosure is made under subsection (a), any  
19 party to the proceeding or any other interested person may  
20 request an in camera review of the record or communications to  
21 be disclosed. The court or agency conducting the proceeding may  
22 hold an in camera review on its own motion. When, contrary to  
23 the express wish of the recipient, the therapist asserts a  
24 privilege on behalf and in the interest of a recipient, the  
25 court may require that the therapist, in an in camera hearing,  
26 establish that disclosure is not in the best interest of the

1 recipient. The court or agency may prevent disclosure or limit  
2 disclosure to the extent that other admissible evidence is  
3 sufficient to establish the facts in issue. The court or agency  
4 may enter such orders as may be necessary in order to protect  
5 the confidentiality, privacy, and safety of the recipient or of  
6 other persons. Any order to disclose or to not disclose shall  
7 be considered a final order for purposes of appeal and shall be  
8 subject to interlocutory appeal.

9 (c) A recipient's records and communications may be  
10 disclosed to a duly authorized committee, commission or  
11 subcommittee of the General Assembly which possesses subpoena  
12 and hearing powers, upon a written request approved by a  
13 majority vote of the committee, commission or subcommittee  
14 members. The committee, commission or subcommittee may request  
15 records only for the purposes of investigating or studying  
16 possible violations of recipient rights. The request shall  
17 state the purpose for which disclosure is sought.

18 The facility shall notify the recipient, or his guardian,  
19 and therapist in writing of any disclosure request under this  
20 subsection within 5 business days after such request. Such  
21 notification shall also inform the recipient, or guardian, and  
22 therapist of their right to object to the disclosure within 10  
23 business days after receipt of the notification and shall  
24 include the name, address and telephone number of the  
25 committee, commission or subcommittee member or staff person  
26 with whom an objection shall be filed. If no objection has been

1 filed within 15 business days after the request for disclosure,  
2 the facility shall disclose the records and communications to  
3 the committee, commission or subcommittee. If an objection has  
4 been filed within 15 business days after the request for  
5 disclosure, the facility shall disclose the records and  
6 communications only after the committee, commission or  
7 subcommittee has permitted the recipient, guardian or  
8 therapist to present his objection in person before it and has  
9 renewed its request for disclosure by a majority vote of its  
10 members.

11 Disclosure under this subsection shall not occur until all  
12 personally identifiable data of the recipient and provider are  
13 removed from the records and communications. Disclosure under  
14 this subsection shall not occur in any public proceeding.

15 (d) No party to any proceeding described under paragraphs  
16 (1), (2), (3), (4), (7), or (8) of subsection (a) of this  
17 Section, nor his or her attorney, shall serve a subpoena  
18 seeking to obtain access to records or communications under  
19 this Act unless the subpoena is accompanied by a written order  
20 issued by a judge or by the written consent under Section 5 of  
21 this Act of the person whose records are being sought,  
22 authorizing the disclosure of the records or the issuance of  
23 the subpoena. No such written order shall be issued without  
24 written notice of the motion to the recipient and the treatment  
25 provider. Prior to issuance of the order, each party or other  
26 person entitled to notice shall be permitted an opportunity to

1 be heard pursuant to subsection (b) of this Section. In the  
2 absence of the written consent under Section 5 of this Act of  
3 the person whose records are being sought, no person shall  
4 comply with a subpoena for records or communications under this  
5 Act, unless the subpoena is accompanied by a written order  
6 authorizing the issuance of the subpoena or the disclosure of  
7 the records. Each subpoena issued by a court or administrative  
8 agency or served on any person pursuant to this subsection (d)  
9 shall include the following language: "No person shall comply  
10 with a subpoena for mental health records or communications  
11 pursuant to Section 10 of the Mental Health and Developmental  
12 Disabilities Confidentiality Act, 740 ILCS 110/10, unless the  
13 subpoena is accompanied by a written order that authorizes the  
14 issuance of the subpoena and the disclosure of records or  
15 communications or by the written consent under Section 5 of  
16 that Act of the person whose records are being sought."

17 (e) When a person has been transported by a peace officer  
18 to a mental health facility, then upon the request of a peace  
19 officer, if the person is allowed to leave the mental health  
20 facility within 48 hours of arrival, excluding Saturdays,  
21 Sundays, and holidays, the facility director shall notify the  
22 local law enforcement authority prior to the release of the  
23 person. The local law enforcement authority may re-disclose the  
24 information as necessary to alert the appropriate enforcement  
25 or prosecuting authority.

26 (f) A recipient's records and communications shall be

1 disclosed to the Inspector General of the Department of Human  
2 Services within 10 business days of a request by the Inspector  
3 General (i) in the course of an investigation authorized by the  
4 Department of Human Services Act and applicable rule or (ii)  
5 during the course of an assessment authorized by the Abuse of  
6 Adults with Disabilities Intervention Act and applicable rule.  
7 The request shall be in writing and signed by the Inspector  
8 General or his or her designee. The request shall state the  
9 purpose for which disclosure is sought. Any person who  
10 knowingly and willfully refuses to comply with such a request  
11 is guilty of a Class A misdemeanor. A recipient's records and  
12 communications shall also be disclosed pursuant to subsection  
13 (s) of Section 1-17 of the Department of Human Services Act in  
14 testimony at Health Care Worker Registry ~~health care worker~~  
15 ~~registry~~ hearings or preliminary proceedings when such are  
16 relevant to the matter in issue, provided that any information  
17 so disclosed shall not be utilized for any other purpose nor be  
18 redisclosed except in connection with such action or  
19 preliminary proceedings.

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

22 Section 99. Effective date. This Act takes effect upon  
23 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