



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5311

Introduced 01/25/06, by Rep. Lee A. Daniels

SYNOPSIS AS INTRODUCED:

| | |
|---------------------|---------------------------------|
| New Act | |
| 20 ILCS 105/4.04a | |
| 20 ILCS 3960/3 | from Ch. 111 1/2, par. 1153 |
| 35 ILCS 5/806 | |
| 210 ILCS 45/1-113 | from Ch. 111 1/2, par. 4151-113 |
| 210 ILCS 45/3-202.5 | |
| 210 ILCS 45/3-206 | from Ch. 111 1/2, par. 4153-206 |
| 225 ILCS 70/4 | from Ch. 111, par. 3654 |
| 225 ILCS 70/17 | from Ch. 111, par. 3667 |
| 305 ILCS 5/5-5.4 | from Ch. 23, par. 5-5.4 |
| 305 ILCS 5/5B-1 | from Ch. 23, par. 5B-1 |
| 305 ILCS 5/5E-5 | |
| 305 ILCS 40/5 | from Ch. 23, par. 7100-5 |
| 730 ILCS 5/5-5-3.2 | from Ch. 38, par. 1005-5-3.2 |

Creates the MR/DD Community Care Act and amends the Nursing Home Care Act. Provides that all intermediate care facilities for the developmentally disabled and long-term care for under age 22 facilities shall be licensed by the Department of Public Health under the MR/DD Community Care Act instead of under the Nursing Home Care Act. Makes the provisions in the MR/DD Community Care Act substantially the same as those in the Nursing Home Care Act, including provisions for the rights of residents and responsibilities of facilities, licensing, violations and penalties, and transfer or discharge of residents. Amends the Illinois Act on the Aging, the Illinois Health Facilities Planning Act, the Illinois Income Tax Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Public Aid Code, the Nursing Home Grant Assistance Act, and the Unified Code of Corrections to make conforming changes. Effective immediately.

LRB094 17818 DRJ 53119 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

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

4 ARTICLE I. SHORT TITLE AND DEFINITIONS

5 Section 1-101. Short title. This Act may be cited as the
6 MR/DD Community Care Act.

7 Section 1-102. For the purposes of this Act, unless the
8 context otherwise requires, the terms defined in this Article
9 have the meanings ascribed to them herein.

10 Section 1-103. "Abuse" means any physical or mental injury
11 or sexual assault inflicted on a resident other than by
12 accidental means in a facility.

13 Section 1-104. "Access" means the right to:

14 (1) Enter any facility;

15 (2) Communicate privately and without restriction with
16 any resident who consents to the communication;

17 (3) Seek consent to communicate privately and without
18 restriction with any resident;

19 (4) Inspect the clinical and other records of a
20 resident with the express written consent of the resident;

21 or

22 (5) Observe all areas of the facility except the living
23 area of any resident who protests the observation.

24 Section 1-105. "Administrator" means a person who is
25 charged with the general administration and supervision of a
26 facility and licensed, if required, under the Nursing Home
27 Administrators Licensing and Disciplinary Act, as now or
28 hereafter amended.

1 Section 1-106. "Affiliate" means:

2 (1) With respect to a partnership, each partner
3 thereof.

4 (2) With respect to a corporation, each officer,
5 director and stockholder thereof.

6 (3) With respect to a natural person: any person
7 related in the first degree of kinship to that person; each
8 partnership and each partner thereof of which that person
9 or any affiliate of that person is a partner; and each
10 corporation in which that person or any affiliate of that
11 person is an officer, director or stockholder.

12 Section 1-107. "Applicant" means any person making
13 application for a license.

14 Section 1-108.1. "Complaint classification" means the
15 Department shall categorize reports about conditions, care or
16 services in a facility into one of three groups after an
17 investigation:

18 (1) "An invalid report" means any report made under
19 this Act for which it is determined after an investigation
20 that no credible evidence of abuse, neglect or other
21 deficiency relating to the complaint exists;

22 (2) "A valid report" means a report made under this Act
23 if an investigation determines that some credible evidence
24 of the alleged abuse, neglect or other deficiency relating
25 to the complaint exists; and

26 (3) "An undetermined report" means a report made under
27 this Act in which it was not possible to initiate or
28 complete an investigation on the basis of information
29 provided to the Department.

30 Section 1-109. "Department" means the Department of Public
31 Health.

1 Section 1-110. "Director" means the Director of Public
2 Health or his designee.

3 Section 1-111. "Discharge" means the full release of any
4 resident from a facility.

5 Section 1-112. "Emergency" means a situation, physical
6 condition or one or more practices, methods or operations which
7 present imminent danger of death or serious physical or mental
8 harm to residents of a facility.

9 Section 1-113. "Facility" means an intermediate care
10 facility for the developmentally disabled or a long-term care
11 for under age 22 facility whether operated for profit or not,
12 which provides, through its ownership or management, personal
13 care, or nursing for 3 or more persons, not related to the
14 applicant or owner by blood or marriage. It includes
15 intermediate care facilities for the mentally retarded as the
16 term is defined in Title XVIII and Title XIX of the Federal
17 Social Security Act.

18 "Facility" does not include the following:

19 (1) A home, institution, or other place operated by the
20 federal government or agency thereof, or by the State of
21 Illinois, other than homes, institutions, or other places
22 operated by or under the authority of the Illinois
23 Department of Veterans' Affairs;

24 (2) A hospital, sanitarium, or other institution whose
25 principal activity or business is the diagnosis, care, and
26 treatment of human illness through the maintenance and
27 operation as organized facilities therefore, which is
28 required to be licensed under the Hospital Licensing Act;

29 (3) Any "facility for child care" as defined in the
30 Child Care Act of 1969;

31 (4) Any "community living facility" as defined in the
32 Community Living Facilities Licensing Act;

33 (5) Any "community residential alternative" as defined

1 in the Community Residential Alternatives Licensing Act;

2 (6) Any nursing home or sanatorium operated solely by
3 and for persons who rely exclusively upon treatment by
4 spiritual means through prayer, in accordance with the
5 creed or tenets of any well recognized church or religious
6 denomination. However, such nursing home or sanatorium
7 shall comply with all local laws and rules relating to
8 sanitation and safety;

9 (7) Any facility licensed by the Department of Human
10 Services as a community integrated living arrangement as
11 defined in the Community Integrated Living Arrangements
12 Licensure and Certification Act;

13 (8) Any "supportive residence" licensed under the
14 Supportive Residences Licensing Act;

15 (9) Any "supportive living facility" in good standing
16 with the program established under Section 5-5.01a of the
17 Illinois Public Aid Code;

18 (10) Any assisted living or shared housing
19 establishment licensed under the Assisted Living and
20 Shared Housing Act;

21 (11) An Alzheimer's disease management center
22 alternative health care model licensed under the
23 Alternative Health Care Delivery Act; or

24 (12) A home, institution, or other place operated by or
25 under the authority of the Illinois Department of Veterans'
26 Affairs.

27 Section 1-114. "Guardian" means a person appointed as a
28 guardian of the person or guardian of the estate, or both, of a
29 resident under the "Probate Act of 1975", as now or hereafter
30 amended.

31 Section 1-114.01. Identified offender. "Identified
32 offender" means a person who has been convicted of any felony
33 offense listed in Section 25 of the Health Care Worker
34 Background Check Act, is a registered sex offender, or is

1 serving a term of parole, mandatory supervised release, or
2 probation for a felony offense.

3 Section 1-114.1. "Immediate family" means the spouse, an
4 adult child, a parent, an adult brother or sister, or an adult
5 grandchild of a person.

6 Section 1-115. "Licensee" means the individual or entity
7 licensed by the Department to operate the facility.

8 Section 1-116. "Maintenance" means food, shelter and
9 laundry services.

10 Section 1-116.5. "Misappropriation of a resident's
11 property" means the deliberate misplacement, exploitation, or
12 wrongful temporary or permanent use of a resident's belongings
13 or money without the resident's consent.

14 Section 1-117. "Neglect" means a failure in a facility to
15 provide adequate medical or personal care or maintenance, which
16 failure results in physical or mental injury to a resident or
17 in the deterioration of a resident's physical or mental
18 condition.

19 Section 1-118. "Nurse" means a registered nurse or a
20 licensed practical nurse as defined in the Nursing and Advanced
21 Practice Nursing Act.

22 Section 1-119. "Owner" means the individual, partnership,
23 corporation, association or other person who owns a facility.
24 In the event a facility is operated by a person who leases the
25 physical plant, which is owned by another person, "owner" means
26 the person who operates the facility, except that if the person
27 who owns the physical plant is an affiliate of the person who
28 operates the facility and has significant control over the day
29 to day operations of the facility, the person who owns the

1 physical plant shall incur jointly and severally with the owner
2 all liabilities imposed on an owner under this Act.

3 Section 1-120. "Personal care" means assistance with
4 meals, dressing, movement, bathing or other personal needs or
5 maintenance, or general supervision and oversight of the
6 physical and mental well being of an individual, who is
7 incapable of maintaining a private, independent residence or
8 who is incapable of managing his person whether or not a
9 guardian has been appointed for such individual.

10 Section 1-121. "Reasonable hour" means any time between the
11 hours of 10 a.m. and 8 p.m. daily.

12 Section 1-122. "Resident" means a person residing in and
13 receiving personal care from a facility.

14 Section 1-123. "Resident's representative" means a person
15 other than the owner, or an agent or employee of a facility not
16 related to the resident, designated in writing by a resident to
17 be his representative, or the resident's guardian, or the
18 parent of a minor resident for whom no guardian has been
19 appointed.

20 Section 1-125. "Stockholder" of a corporation means any
21 person who, directly or indirectly, beneficially owns, holds or
22 has the power to vote, at least 5% of any class of securities
23 issued by the corporation.

24 Section 1-125.1. "Student intern" means any person whose
25 total term of employment in any facility during any 12 month
26 period is equal to or less than 90 continuous days, and whose
27 term of employment is either:

28 (1) an academic credit requirement in a high school or
29 undergraduate institution, or

30 (2) immediately succeeds a full quarter, semester or

1 trimester of academic enrollment in either a high school or
2 undergraduate institution, provided that such person is
3 registered for another full quarter, semester or trimester
4 of academic enrollment in either a high school or
5 undergraduate institution which quarter, semester or
6 trimester will commence immediately following the term of
7 employment.

8 Section 1-126. "Title XVIII" means Title XVIII of the
9 federal Social Security Act as now or hereafter amended.

10 Section 1-127. "Title XIX" means Title XIX of the federal
11 Social Security Act as now or hereafter amended.

12 Section 1-128. "Transfer" means a change in status of a
13 resident's living arrangements from one facility to another
14 facility.

15 Section 1-129. A "Type 'A' violation" means a violation of
16 this Act or of the rules promulgated thereunder which creates a
17 condition or occurrence relating to the operation and
18 maintenance of a facility presenting a substantial probability
19 that death or serious mental or physical harm to a resident
20 will result therefrom.

21 Section 1-130. A "Type 'B' violation" means a violation of
22 this Act or of the rules promulgated thereunder which creates a
23 condition or occurrence relating to the operation and
24 maintenance of a facility directly threatening to the health,
25 safety or welfare of a resident.

26 ARTICLE II. RIGHTS AND RESPONSIBILITIES

27 PART 1. RESIDENT RIGHTS

28 Section 2-101. No resident shall be deprived of any rights,

1 benefits, or privileges guaranteed by law, the Constitution of
2 the State of Illinois, or the Constitution of the United States
3 solely on account of his status as a resident of a facility.

4 Section 2-101.1. Spousal Impoverishment. All new residents
5 and their spouses shall be informed on admittance of their
6 spousal impoverishment rights as defined at Section 5-4 of the
7 Illinois Public Aid Code, as now or hereafter amended and at
8 Section 303 of Title III of the Medicare Catastrophic Coverage
9 Act of 1988 (P.L. 100 360).

10 Section 2-102. A resident shall be permitted to manage his
11 own financial affairs unless he or his guardian or if the
12 resident is a minor, his parent, authorizes the administrator
13 of the facility in writing to manage such resident's financial
14 affairs under Section 2-201 of this Act.

15 Section 2-103. A resident shall be permitted to retain and
16 use or wear his personal property in his immediate living
17 quarters, unless deemed medically inappropriate by a physician
18 and so documented in the resident's clinical record. If
19 clothing is provided to the resident by the facility, it shall
20 be of a proper fit.

21 The facility shall provide adequate storage space for the
22 personal property of the resident. The facility shall provide a
23 means of safeguarding small items of value for its residents in
24 their rooms or in any other part of the facility so long as the
25 residents have daily access to such valuables. The facility
26 shall make reasonable efforts to prevent loss and theft of
27 residents' property. Those efforts shall be appropriate to the
28 particular facility and may include, but are not limited to,
29 staff training and monitoring, labeling property, and frequent
30 property inventories. The facility shall develop procedures
31 for investigating complaints concerning theft of residents'
32 property and shall promptly investigate all such complaints.

1 Section 2-104.

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

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

28 According to rules adopted by the Department, every woman
29 resident of child bearing age shall receive routine obstetrical
30 and gynecological evaluations as well as necessary prenatal
31 care.

32 (c) Every resident shall be permitted to refuse medical
33 treatment and to know the consequences of such action, unless
34 such refusal would be harmful to the health and safety of
35 others and such harm is documented by a physician in the
36 resident's clinical record. The resident's refusal shall free

1 the facility from the obligation to provide the treatment.

2 (d) Every resident, resident's guardian, or parent if the
3 resident is a minor shall be permitted to inspect and copy all
4 his clinical and other records concerning his care and
5 maintenance kept by the facility or by his physician. The
6 facility may charge a reasonable fee for duplication of a
7 record.

8 Section 2-104.1. Whenever ownership of a private facility
9 is transferred to another private owner following a final order
10 for a suspension or revocation of the facility's license, the
11 new owner, if the Department so determines, shall thoroughly
12 evaluate the condition and needs of each resident as if each
13 resident were being newly admitted to the facility. The
14 evaluation shall include a review of the medical record and the
15 conduct of a physical examination of each resident which shall
16 be performed within 30 days after the transfer of ownership.

17 Section 2-104.2. Do Not Resuscitate Orders. Every facility
18 licensed under this Act shall establish a policy for the
19 implementation of physician orders limiting resuscitation such
20 as those commonly referred to as "Do Not Resuscitate" orders.
21 This policy may only prescribe the format, method of
22 documentation and duration of any physician orders limiting
23 resuscitation. Any orders under this policy shall be honored by
24 the facility. The Department of Public Health Uniform DNR Order
25 form or a copy of that form shall be honored by the facility.

26 Section 2-105. A resident shall be permitted respect and
27 privacy in his medical and personal care program. Every
28 resident's case discussion, consultation, examination and
29 treatment shall be confidential and shall be conducted
30 discreetly, and those persons not directly involved in the
31 resident's care must have his permission to be present.

32 Section 2-106. (a) For purposes of this Act:

1 (i) a physical restraint is any manual method or
2 physical or mechanical device, material, or equipment
3 attached or adjacent to a resident's body that the resident
4 cannot remove easily and restricts freedom of movement or
5 normal access to one's body. Devices used for positioning,
6 including but not limited to bed rails, gait belts, and
7 cushions, shall not be considered to be restraints for
8 purposes of this Section;

9 (ii) a chemical restraint is any drug used for
10 discipline or convenience and not required to treat medical
11 symptoms. The Department shall by rule, designate certain
12 devices as restraints, including at least all those devices
13 which have been determined to be restraints by the United
14 States Department of Health and Human Services in
15 interpretive guidelines issued for the purposes of
16 administering Titles XVIII and XIX of the Social Security
17 Act.

18 (b) Neither restraints nor confinements shall be employed
19 for the purpose of punishment or for the convenience of any
20 facility personnel. No restraints or confinements shall be
21 employed except as ordered by a physician who documents the
22 need for such restraints or confinements in the resident's
23 clinical record. Each facility licensed under this Act must
24 have a written policy to address the use of restraints and
25 seclusion. The Department shall establish by rule the
26 provisions that the policy must include, which, to the extent
27 practicable, should be consistent with the requirements for
28 participation in the federal Medicare program. Each policy
29 shall include periodic review of the use of restraints.

30 (c) A restraint may be used only with the informed consent
31 of the resident, the resident's guardian, or other authorized
32 representative. A restraint may be used only for specific
33 periods, if it is the least restrictive means necessary to
34 attain and maintain the resident's highest practicable
35 physical, mental or psychosocial well being, including brief
36 periods of time to provide necessary life saving treatment. A

1 restraint may be used only after consultation with appropriate
2 health professionals, such as occupational or physical
3 therapists, and a trial of less restrictive measures has led to
4 the determination that the use of less restrictive measures
5 would not attain or maintain the resident's highest practicable
6 physical, mental or psychosocial well being. However, if the
7 resident needs emergency care, restraints may be used for brief
8 periods to permit medical treatment to proceed unless the
9 facility has notice that the resident has previously made a
10 valid refusal of the treatment in question.

11 (d) A restraint may be applied only by a person trained in
12 the application of the particular type of restraint.

13 (e) Whenever a period of use of a restraint is initiated,
14 the resident shall be advised of his or her right to have a
15 person or organization of his or her choosing, including the
16 Guardianship and Advocacy Commission, notified of the use of
17 the restraint. A recipient who is under guardianship may
18 request that a person or organization of his or her choosing be
19 notified of the restraint, whether or not the guardian approves
20 the notice. If the resident so chooses, the facility shall make
21 the notification within 24 hours, including any information
22 about the period of time that the restraint is to be used.
23 Whenever the Guardianship and Advocacy Commission is notified
24 that a resident has been restrained, it shall contact the
25 resident to determine the circumstances of the restraint and
26 whether further action is warranted.

27 (f) Whenever a restraint is used on a resident whose
28 primary mode of communication is sign language, the resident
29 shall be permitted to have his or her hands free from restraint
30 for brief periods each hour, except when this freedom may
31 result in physical harm to the resident or others.

32 (g) The requirements of this Section are intended to
33 control in any conflict with the requirements of Sections 1-126
34 and 2-108 of the Mental Health and Developmental Disabilities
35 Code.

1 Section 2-106.1. Drug treatment.

2 (a) A resident shall not be given unnecessary drugs. An
3 unnecessary drug is any drug used in an excessive dose,
4 including in duplicative therapy; for excessive duration;
5 without adequate monitoring; without adequate indications for
6 its use; or in the presence of adverse consequences that
7 indicate the drugs should be reduced or discontinued. The
8 Department shall adopt, by rule, the standards for unnecessary
9 drugs contained in interpretive guidelines issued by the United
10 States Department of Health and Human Services for the purposes
11 of administering Titles XVIII and XIX of the Social Security
12 Act.

13 (b) Psychotropic medication shall not be prescribed
14 without the informed consent of the resident, the resident's
15 guardian, or other authorized representative. "Psychotropic
16 medication" means medication that is used for or listed as used
17 for antipsychotic, antidepressant, antimanic, or antianxiety
18 behavior modification or behavior management purposes in the
19 latest editions of the AMA Drug Evaluations or the Physician's
20 Desk Reference.

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

26 Section 2-106a. Resident identification wristlet. No
27 identification wristlets shall be employed except as ordered by
28 a physician who documents the need for such mandatory
29 identification in the resident's clinical record. When
30 identification bracelets are required, they must identify the
31 resident's name, and the name and address of the facility
32 issuing the identification wristlet.

33 Section 2-107. An owner, licensee, administrator, employee
34 or agent of a facility shall not abuse or neglect a resident.

1 It is the duty of any facility employee or agent who becomes
2 aware of such abuse or neglect to report it as provided in the
3 Abused and Neglected Long Term Care Facility Residents
4 Reporting Act.

5 Section 2-108. Every resident shall be permitted
6 unimpeded, private and uncensored communication of his choice
7 by mail, public telephone or visitation.

8 (a) The administrator shall ensure that correspondence is
9 conveniently received and mailed, and that telephones are
10 reasonably accessible.

11 (b) The administrator shall ensure that residents may have
12 private visits at any reasonable hour unless such visits are
13 not medically advisable for the resident as documented in the
14 resident's clinical record by the resident's physician.

15 (c) The administrator shall ensure that space for visits is
16 available and that facility personnel knock, except in an
17 emergency, before entering any resident's room.

18 (d) Unimpeded, private and uncensored communication by
19 mail, public telephone and visitation may be reasonably
20 restricted by a physician only in order to protect the resident
21 or others from harm, harassment or intimidation, provided that
22 the reason for any such restriction is placed in the resident's
23 clinical record by the physician and that notice of such
24 restriction shall be given to all residents upon admission.
25 However, all letters addressed by a resident to the Governor,
26 members of the General Assembly, Attorney General, judges,
27 state's attorneys, officers of the Department, or licensed
28 attorneys at law shall be forwarded at once to the persons to
29 whom they are addressed without examination by facility
30 personnel. Letters in reply from the officials and attorneys
31 mentioned above shall be delivered to the recipient without
32 examination by facility personnel.

33 (e) The administrator shall ensure that married residents
34 residing in the same facility be allowed to reside in the same
35 room within the facility unless there is no room available in

1 the facility or it is deemed medically inadvisable by the
2 residents' attending physician and so documented in the
3 residents' medical records.

4 Section 2-109. A resident shall be permitted the free
5 exercise of religion. Upon a resident's request, and if
6 necessary at his expense, the administrator shall make
7 arrangements for a resident's attendance at religious services
8 of the resident's choice. However, no religious beliefs or
9 practices, or attendance at religious services, may be imposed
10 upon any resident.

11 Section 2-110.

12 (a) Any employee or agent of a public agency, any
13 representative of a community legal services program or any
14 other member of the general public shall be permitted access at
15 reasonable hours to any individual resident of any facility,
16 but only if there is neither a commercial purpose nor effect to
17 such access and if the purpose is to do any of the following:

18 (1) Visit, talk with and make personal, social and
19 legal services available to all residents;

20 (2) Inform residents of their rights and entitlements
21 and their corresponding obligations, under federal and
22 State laws, by means of educational materials and
23 discussions in groups and with individual residents;

24 (3) Assist residents in asserting their legal rights
25 regarding claims for public assistance, medical assistance
26 and social security benefits, as well as in all other
27 matters in which residents are aggrieved. Assistance may
28 include counseling and litigation; or

29 (4) Engage in other methods of asserting, advising and
30 representing residents so as to extend to them full
31 enjoyment of their rights.

32 (a-5) If a resident of a licensed facility is an identified
33 offender, any federal, State, or local law enforcement officer
34 or county probation officer shall be permitted reasonable

1 access to the individual resident to verify compliance with the
2 requirements of the Sex Offender Registration Act or to verify
3 compliance with applicable terms of probation, parole, or
4 mandatory supervised release.

5 (b) All persons entering a facility under this Section
6 shall promptly notify appropriate facility personnel of their
7 presence. They shall, upon request, produce identification to
8 establish their identity. No such person shall enter the
9 immediate living area of any resident without first identifying
10 himself and then receiving permission from the resident to
11 enter. The rights of other residents present in the room shall
12 be respected. A resident may terminate at any time a visit by a
13 person having access to the resident's living area under this
14 Section.

15 (c) This Section shall not limit the power of the
16 Department or other public agency otherwise permitted or
17 required by law to enter and inspect a facility.

18 (d) Notwithstanding paragraph (a) of this Section, the
19 administrator of a facility may refuse access to the facility
20 to any person if the presence of that person in the facility
21 would be injurious to the health and safety of a resident or
22 would threaten the security of the property of a resident or
23 the facility, or if the person seeks access to the facility for
24 commercial purposes. Any person refused access to a facility
25 may within 10 days request a hearing under Section 3-703. In
26 that proceeding, the burden of proof as to the right of the
27 facility to refuse access under this Section shall be on the
28 facility.

29 Section 2-111. A resident may be discharged from a facility
30 after he gives the administrator, a physician, or a nurse of
31 the facility written notice of his desire to be discharged. If
32 a guardian has been appointed for a resident or if the resident
33 is a minor, the resident shall be discharged upon written
34 consent of his guardian or if the resident is a minor, his
35 parent unless there is a court order to the contrary. In such

1 cases, upon the resident's discharge, the facility is relieved
2 from any responsibility for the resident's care, safety or well
3 being.

4 Section 2-112. A resident shall be permitted to present
5 grievances on behalf of himself or others to the administrator,
6 the Long-Term Care Facility Advisory Board established under
7 Section 2-204 of the Nursing Home Care Act, the residents'
8 advisory council, State governmental agencies or other persons
9 without threat of discharge or reprisal in any form or manner
10 whatsoever. The administrator shall provide all residents or
11 their representatives with the name, address, and telephone
12 number of the appropriate State governmental office where
13 complaints may be lodged.

14 Section 2-113. A resident may refuse to perform labor for a
15 facility.

16 PART 2. RESPONSIBILITIES

17 Section 2-201. To protect the residents' funds, the
18 facility:

19 (1) Shall at the time of admission provide, in order of
20 priority, each resident, or the resident's guardian, if any, or
21 the resident's representative, if any, or the resident's
22 immediate family member, if any, with a written statement
23 explaining to the resident and to the resident's spouse (a)
24 their spousal impoverishment rights, as defined at Section 5-4
25 of the Illinois Public Aid Code, and at Section 303 of Title
26 III of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100
27 360), and (b) the resident's rights regarding personal funds
28 and listing the services for which the resident will be
29 charged. The facility shall obtain a signed acknowledgment from
30 each resident or the resident's guardian, if any, or the
31 resident's representative, if any, or the resident's immediate
32 family member, if any, that such person has received the

1 statement.

2 (2) May accept funds from a resident for safekeeping and
3 managing, if it receives written authorization from, in order
4 of priority, the resident or the resident's guardian, if any,
5 or the resident's representative, if any, or the resident's
6 immediate family member, if any; such authorization shall be
7 attested to by a witness who has no pecuniary interest in the
8 facility or its operations, and who is not connected in any way
9 to facility personnel or the administrator in any manner
10 whatsoever.

11 (3) Shall maintain and allow, in order of priority, each
12 resident or the resident's guardian, if any, or the resident's
13 representative, if any, or the resident's immediate family
14 member, if any, access to a written record of all financial
15 arrangements and transactions involving the individual
16 resident's funds.

17 (4) Shall provide, in order of priority, each resident, or
18 the resident's guardian, if any, or the resident's
19 representative, if any, or the resident's immediate family
20 member, if any, with a written itemized statement at least
21 quarterly, of all financial transactions involving the
22 resident's funds.

23 (5) Shall purchase a surety bond, or otherwise provide
24 assurance satisfactory to the Departments of Public Health and
25 Financial and Professional Regulation that all residents'
26 personal funds deposited with the facility are secure against
27 loss, theft, and insolvency.

28 (6) Shall keep any funds received from a resident for
29 safekeeping in an account separate from the facility's funds,
30 and shall at no time withdraw any part or all of such funds for
31 any purpose other than to return the funds to the resident upon
32 the request of the resident or any other person entitled to
33 make such request, to pay the resident his allowance, or to
34 make any other payment authorized by the resident or any other
35 person entitled to make such authorization.

36 (7) Shall deposit any funds received from a resident in

1 excess of \$100 in an interest bearing account insured by
2 agencies of, or corporations chartered by, the State or federal
3 government. The account shall be in a form which clearly
4 indicates that the facility has only a fiduciary interest in
5 the funds and any interest from the account shall accrue to the
6 resident. The facility may keep up to \$100 of a resident's
7 money in a non-interest-bearing account or petty cash fund, to
8 be readily available for the resident's current expenditures.

9 (8) Shall return to the resident, or the person who
10 executed the written authorization required in subsection (2)
11 of this Section, upon written request, all or any part of the
12 resident's funds given the facility for safekeeping, including
13 the interest accrued from deposits.

14 (9) Shall (a) place any monthly allowance to which a
15 resident is entitled in that resident's personal account, or
16 give it to the resident, unless the facility has written
17 authorization from the resident or the resident's guardian or
18 if the resident is a minor, his parent, to handle it
19 differently, (b) take all steps necessary to ensure that a
20 personal needs allowance that is placed in a resident's
21 personal account is used exclusively by the resident or for the
22 benefit of the resident, and (c) where such funds are withdrawn
23 from the resident's personal account by any person other than
24 the resident, require such person to whom funds constituting
25 any part of a resident's personal needs allowance are released,
26 to execute an affidavit that such funds shall be used
27 exclusively for the benefit of the resident.

28 (10) Unless otherwise provided by State law, upon the death
29 of a resident, shall provide the executor or administrator of
30 the resident's estate with a complete accounting of all the
31 resident's personal property, including any funds of the
32 resident being held by the facility.

33 (11) If an adult resident is incapable of managing his
34 funds and does not have a resident's representative, guardian,
35 or an immediate family member, shall notify the Office of the
36 State Guardian of the Guardianship and Advocacy Commission.

1 (12) If the facility is sold, shall provide the buyer with
2 a written verification by a public accountant of all residents'
3 monies and properties being transferred, and obtain a signed
4 receipt from the new owner.

5 Section 2-201.5. Screening prior to admission.

6 (a) All persons age 18 or older seeking admission to a
7 facility must be screened to determine the need for facility
8 services prior to being admitted, regardless of income, assets,
9 or funding source. In addition, any person who seeks to become
10 eligible for medical assistance from the Medical Assistance
11 Program under the Illinois Public Aid Code to pay for services
12 while residing in a facility must be screened prior to
13 receiving those benefits. Screening for facility services
14 shall be administered through procedures established by
15 administrative rule. Screening may be done by agencies other
16 than the Department as established by administrative rule.

17 (b) In addition to the screening required by subsection
18 (a), identified offenders who seek admission to a licensed
19 facility shall not be admitted unless the licensed facility
20 complies with the requirements of the Department's
21 administrative rules adopted pursuant to Section 3-202.3.

22 Section 2-202.

23 (a) Before a person is admitted to a facility, or at the
24 expiration of the period of previous contract, or when the
25 source of payment for the resident's care changes from private
26 to public funds or from public to private funds, a written
27 contract shall be executed between a licensee and the following
28 in order of priority:

29 (1) the person, or if the person is a minor, his parent
30 or guardian; or

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

34 (3) a member of the person's immediate family. An adult

1 person shall be presumed to have the capacity to contract
2 for admission to a long term care facility unless he has
3 been adjudicated a "disabled person" within the meaning of
4 Section 11a-2 of the Probate Act of 1975, or unless a
5 petition for such an adjudication is pending in a circuit
6 court of Illinois. If there is no guardian, agent or member
7 of the person's immediate family available, able or willing
8 to execute the contract required by this Section and a
9 physician determines that a person is so disabled as to be
10 unable to consent to placement in a facility, or if a
11 person has already been found to be a "disabled person",
12 but no order has been entered allowing residential
13 placement of the person, that person may be admitted to a
14 facility before the execution of a contract required by
15 this Section; provided that a petition for guardianship or
16 for modification of guardianship is filed within 15 days of
17 the person's admission to a facility, and provided further
18 that such a contract is executed within 10 days of the
19 disposition of the petition. No adult shall be admitted to
20 a facility if he objects, orally or in writing, to such
21 admission, except as otherwise provided in Chapters III and
22 IV of the Mental Health and Developmental Disabilities Code
23 or Section 11a-14.1 of the Probate Act of 1975. Before a
24 licensee enters a contract under this Section, it shall
25 provide the prospective resident and his guardian, if any,
26 with written notice of the licensee's policy regarding
27 discharge of a resident whose private funds for payment of
28 care are exhausted.

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

32 (c) At the time of the resident's admission to the
33 facility, a copy of the contract shall be given to the
34 resident, his guardian, if any, and any other person who
35 executed the contract.

36 (d) A copy of the contract for a resident who is supported

1 by nonpublic funds other than the resident's own funds shall be
2 made available to the person providing the funds for the
3 resident's support.

4 (e) The original or a copy of the contract shall be
5 maintained in the facility and be made available upon request
6 to representatives of the Department and the Department of
7 Healthcare and Family Services.

8 (f) The contract shall be written in clear and unambiguous
9 language and shall be printed in not less than 12-point type.
10 The general form of the contract shall be prescribed by the
11 Department.

12 (g) The contract shall specify:

13 (1) the term of the contract;

14 (2) the services to be provided under the contract and
15 the charges for the services;

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

18 (4) the sources liable for payments due under the
19 contract;

20 (5) the amount of deposit paid; and

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

25 (h) The contract shall designate the name of the resident's
26 representative, if any. The resident shall provide the facility
27 with a copy of the written agreement between the resident and
28 the resident's representative which authorizes the resident's
29 representative to inspect and copy the resident's records and
30 authorizes the resident's representative to execute the
31 contract on behalf of the resident required by this Section.

32 (i) The contract shall provide that if the resident is
33 compelled by a change in physical or mental health to leave the
34 facility, the contract and all obligations under it shall
35 terminate on 7 days' notice. No prior notice of termination of
36 the contract shall be required, however, in the case of a

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

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

16 (1) whether the facility accepts Medicaid clients;

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

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

24 (4) that all deposits made to a facility by a resident,
25 or on behalf of a resident, shall be returned by the
26 facility within 30 days of the establishment of Medicaid
27 eligibility, unless such deposits must be drawn upon or
28 encumbered in accordance with Medicaid eligibility
29 requirements established by the Illinois Department of
30 Healthcare and Family Services.

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

34 Section 2-203. Each facility shall establish a residents'
35 advisory council. The administrator shall designate a member of

1 the facility staff to coordinate the establishment of, and
2 render assistance to, the council.

3 (a) The composition of the residents' advisory council
4 shall be specified by Department regulation, but no employee or
5 affiliate of a facility shall be a member of any council.

6 (b) The council shall meet at least once each month with
7 the staff coordinator who shall provide assistance to the
8 council in preparing and disseminating a report of each meeting
9 to all residents, the administrator, and the staff.

10 (c) Records of the council meetings will be maintained in
11 the office of the administrator.

12 (d) The residents' advisory council may communicate to the
13 administrator the opinions and concerns of the residents. The
14 council shall review procedures for implementing resident
15 rights, facility responsibilities and make recommendations for
16 changes or additions which will strengthen the facility's
17 policies and procedures as they affect residents' rights and
18 facility responsibilities.

19 (e) The council shall be a forum for:

20 (1) Obtaining and disseminating information;

21 (2) Soliciting and adopting recommendations for
22 facility programing and improvements;

23 (3) Early identification and for recommending orderly
24 resolution of problems.

25 (f) The council may present complaints as provided in
26 Section 3-702 on behalf of a resident to the Department, the
27 Long-Term Care Facility Advisory Board established under
28 Section 2-204 of the Nursing Home Care Act or to any other
29 person it considers appropriate.

30 Section 2-204. Long-Term Care Facility Advisory Board. The
31 Long-Term Care Facility Advisory Board established under
32 Section 2-204 of the Nursing Home Care Act shall advise the
33 Department of Public Health on all aspects of its
34 responsibilities under this Act, including the format and
35 content of any rules promulgated by the Department of Public

1 Health. Any such rules, except emergency rules promulgated
2 pursuant to Section 5-45 of the Illinois Administrative
3 Procedure Act, promulgated without obtaining the advice of the
4 Advisory Board are null and void. In the event that the
5 Department fails to follow the advice of the Board, the
6 Department shall, prior to the promulgation of such rules,
7 transmit a written explanation of the reason thereof to the
8 Board. During its review of rules, the Board shall analyze the
9 economic and regulatory impact of those rules. If the Advisory
10 Board, having been asked for its advice, fails to advise the
11 Department within 90 days, the rules shall be considered acted
12 upon.

13 Section 2-205. The following information is subject to
14 disclosure to the public from the Department or the Department
15 of Healthcare and Family Services:

16 (1) Information submitted under Sections 3-103 and
17 3-207 except information concerning the remuneration of
18 personnel licensed, registered, or certified by the
19 Department of Financial and Professional Regulation (as
20 successor to the Department of Professional Regulation)
21 and monthly charges for an individual private resident;

22 (2) Records of license and certification inspections,
23 surveys, and evaluations of facilities, other reports of
24 inspections, surveys, and evaluations of resident care,
25 and reports concerning a facility prepared pursuant to
26 Titles XVIII and XIX of the Social Security Act, subject to
27 the provisions of the Social Security Act;

28 (3) Cost and reimbursement reports submitted by a
29 facility under Section 3-208, reports of audits of
30 facilities, and other public records concerning costs
31 incurred by, revenues received by, and reimbursement of
32 facilities; and

33 (4) Complaints filed against a facility and complaint
34 investigation reports, except that a complaint or
35 complaint investigation report shall not be disclosed to a

1 person other than the complainant or complainant's
2 representative before it is disclosed to a facility under
3 Section 3-702, and, further, except that a complainant or
4 resident's name shall not be disclosed except under Section
5 3-702. The Department shall disclose information under
6 this Section in accordance with provisions for inspection
7 and copying of public records required by the Freedom of
8 Information Act. However, the disclosure of information
9 described in subsection (1) shall not be restricted by any
10 provision of the Freedom of Information Act.

11 Section 2-206.

12 (a) The Department shall respect the confidentiality of a
13 resident's record and shall not divulge or disclose the
14 contents of a record in a manner which identifies a resident,
15 except upon a resident's death to a relative or guardian, or
16 under judicial proceedings. This Section shall not be construed
17 to limit the right of a resident to inspect or copy the
18 resident's records.

19 (b) Confidential medical, social, personal, or financial
20 information identifying a resident shall not be available for
21 public inspection in a manner which identifies a resident.

22 Section 2-207. (a) Each year the Department shall publish a
23 Directory for each public health region listing facilities to
24 be made available to the public and be available at all
25 Department offices. The Department may charge a fee for the
26 Directory. The Directory shall contain, at a minimum, the
27 following information:

- 28 (1) The name and address of the facility;
- 29 (2) The number and type of licensed beds;
- 30 (3) The name of the cooperating hospital, if any;
- 31 (4) The name of the administrator;
- 32 (5) The facility telephone number; and
- 33 (6) Membership in a provider association and
34 accreditation by any such organization.

1 (b) Detailed information concerning basic costs for care
2 and operating policies shall be available to the public upon
3 request at each facility. However, a facility may refuse to
4 make available any proprietary operating policies to the extent
5 such facility reasonably believes such policies may be revealed
6 to a competitor.

7 Section 2-208. A facility shall immediately notify the
8 resident's next of kin, representative and physician of the
9 resident's death or when the resident's death appears to be
10 imminent.

11 Section 2-209. A facility shall admit only that number of
12 residents for which it is licensed.

13 Section 2-210. A facility shall establish written policies
14 and procedures to implement the responsibilities and rights
15 provided in this Article. The policies shall include the
16 procedure for the investigation and resolution of resident
17 complaints as set forth under Section 3-702. The policies and
18 procedures shall be clear and unambiguous and shall be
19 available for inspection by any person. A summary of the
20 policies and procedures, printed in not less than 12-point
21 type, shall be distributed to each resident and representative.

22 Section 2-211. Each resident and resident's guardian or
23 other person acting for the resident shall be given a written
24 explanation, prepared by the Office of the State Long Term Care
25 Ombudsman, of all the rights enumerated in Part 1 of this
26 Article and in Part 4 of Article III. For residents of
27 facilities participating in Title XVIII or XIX of the Social
28 Security Act, the explanation shall include an explanation of
29 residents' rights enumerated in that Act. The explanation shall
30 be given at the time of admission to a facility or as soon
31 thereafter as the condition of the resident permits, but in no
32 event later than 48 hours after admission, and again at least

1 annually thereafter. At the time of the implementation of this
2 Act each resident shall be given a written summary of all the
3 rights enumerated in Part 1 of this Article.

4 If a resident is unable to read such written explanation,
5 it shall be read to the resident in a language the resident
6 understands. In the case of a minor or a person having a
7 guardian or other person acting for him, both the resident and
8 the parent, guardian or other person acting for the resident
9 shall be fully informed of these rights.

10 Section 2-212. The facility shall ensure that its staff is
11 familiar with and observes the rights and responsibilities
12 enumerated in this Article.

13 Section 2-213. Vaccinations.

14 (a) A facility shall annually administer or arrange for
15 administration of a vaccination against influenza to each
16 resident, in accordance with the recommendations of the
17 Advisory Committee on Immunization Practices of the Centers for
18 Disease Control and Prevention that are most recent to the time
19 of vaccination, unless the vaccination is medically
20 contraindicated or the resident has refused the vaccine.
21 Influenza vaccinations for all residents age 65 and over shall
22 be completed by November 30 of each year or as soon as
23 practicable if vaccine supplies are not available before
24 November 1. Residents admitted after November 30, during the
25 flu season, and until February 1 shall, as medically
26 appropriate, receive an influenza vaccination prior to or upon
27 admission or as soon as practicable if vaccine supplies are not
28 available at the time of the admission, unless the vaccine is
29 medically contraindicated or the resident has refused the
30 vaccine. In the event that the Advisory Committee on
31 Immunization Practices of the Centers for Disease Control and
32 Prevention determines that dates of administration other than
33 those stated in this Act are optimal to protect the health of
34 residents, the Department is authorized to develop rules to

1 mandate vaccinations at those times rather than the times
2 stated in this Act. A facility shall document in the resident's
3 medical record that an annual vaccination against influenza was
4 administered, arranged, refused or medically contraindicated.

5 (b) A facility shall administer or arrange for
6 administration of a pneumococcal vaccination to each resident
7 who is age 65 and over, in accordance with the recommendations
8 of the Advisory Committee on Immunization Practices of the
9 Centers for Disease Control and Prevention, who has not
10 received this immunization prior to or upon admission to the
11 facility, unless the resident refuses the offer for vaccination
12 or the vaccination is medically contraindicated. A facility
13 shall document in each resident's medical record that a
14 vaccination against pneumococcal pneumonia was offered and
15 administered, arranged, refused, or medically contraindicated.

16 Section 2-216. Notification of identified offenders. If
17 identified offenders are residents of the licensed facility,
18 the licensed facility shall notify every resident or resident's
19 guardian in writing that such offenders are residents of the
20 licensed facility. The licensed facility shall also provide
21 notice to its employees and to visitors to the facility that
22 identified offenders are residents.

23 ARTICLE III. LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES AND
24 REMEDIES

25 PART 1. LICENSING

26 Section 3-101. The Department shall establish a
27 comprehensive system of licensure for facilities in accordance
28 with this Act for the purposes of:

29 (1) Protecting the health, welfare, and safety of
30 residents; and

31 (2) Assuring the accountability for reimbursed care
32 provided in certified facilities participating in a federal or

1 State health program.

2 Section 3-102. No person may establish, operate, maintain,
3 offer or advertise a facility within this State unless and
4 until he obtains a valid license therefore as hereinafter
5 provided, which license remains unsuspended, unrevoked and
6 unexpired. No public official or employee may place any person
7 in, or recommend that any person be placed in, or directly or
8 indirectly cause any person to be placed in any facility which
9 is being operated without a valid license.

10 Section 3-102.1. If the Department is denied access to a
11 facility or any other place which it reasonably believes is
12 required to be licensed as a facility under this Act, it shall
13 request intervention of local, county or State law enforcement
14 agencies to seek an appropriate court order or warrant to
15 examine or interview the residents of such facility. Any person
16 or entity preventing the Department from carrying out its
17 duties under this Section shall be guilty of a violation of
18 this Act and shall be subject to such penalties related
19 thereto.

20 Section 3-103. The procedure for obtaining a valid license
21 shall be as follows:

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

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

1 special fund is to be used by the Department for expenses
2 related to the appointment of monitors and receivers as
3 contained in Sections 3-501 through 3-517. At the end of
4 each fiscal year, any funds in excess of \$1,000,000 held in
5 the Long Term Care Monitor/Receiver Fund shall be deposited
6 in the State's General Revenue Fund. The application shall
7 be under oath and the submission of false or misleading
8 information shall be a Class A misdemeanor. The application
9 shall contain the following information:

10 (a) The name and address of the applicant if an
11 individual, and if a firm, partnership, or
12 association, of every member thereof, and in the case
13 of a corporation, the name and address thereof and of
14 its officers and its registered agent, and in the case
15 of a unit of local government, the name and address of
16 its chief executive officer;

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

19 (c) The name of the person or persons under whose
20 management or supervision the facility will be
21 conducted;

22 (d) The number and type of residents for which
23 maintenance, personal care, or nursing is to be
24 provided; and

25 (e) Such information relating to the number,
26 experience, and training of the employees of the
27 facility, any management agreements for the operation
28 of the facility, and of the moral character of the
29 applicant and employees as the Department may deem
30 necessary.

31 (3) Each initial application shall be accompanied by a
32 financial statement setting forth the financial condition
33 of the applicant and by a statement from the unit of local
34 government having zoning jurisdiction over the facility's
35 location stating that the location of the facility is not
36 in violation of a zoning ordinance. An initial application

1 for a new facility shall be accompanied by a permit as
2 required by the Illinois Health Facilities Planning Act.
3 After the application is approved, the applicant shall
4 advise the Department every 6 months of any changes in the
5 information originally provided in the application.

6 (4) Other information necessary to determine the
7 identity and qualifications of an applicant to operate a
8 facility in accordance with this Act shall be included in
9 the application as required by the Department in
10 regulations.

11 Section 3-104. Any city, village or incorporated town may
12 by ordinance provide for the licensing and regulation of a
13 facility or any classification of such facility, as defined
14 herein, within such municipality, provided that the ordinance
15 requires compliance with at least the minimum requirements
16 established by the Department under this Act. The licensing and
17 enforcement provisions of the municipality shall fully comply
18 with this Act, and the municipality shall make available
19 information as required by this Act. Such compliance shall be
20 determined by the Department subject to review as provided in
21 Section 3-703. Section 3-703 shall also be applicable to the
22 judicial review of final administrative decisions of the
23 municipality under this Act.

24 Section 3-105. Any city, village or incorporated town which
25 has or may have ordinances requiring the licensing and
26 regulation of facilities with at least the minimum standards
27 established by the Department under this Act, shall make such
28 periodic reports to the Department as the Department deems
29 necessary. This report shall include a list of those facilities
30 licensed by such municipality, the number of beds of each
31 facility and the date the license of each facility is
32 effective.

33 Section 3-106.

1 (a) Upon receipt of notice and proof from an applicant or
2 licensee that he has received a license or renewal thereof from
3 a city, village or incorporated town, accompanied by the
4 required license or renewal fees, the Department shall issue a
5 license or renewal license to such person. The Department shall
6 not issue a license hereunder to any person who has failed to
7 qualify for a municipal license. If the issuance of a license
8 by the Department antedates regulatory action by a
9 municipality, the municipality shall issue a local license
10 unless the standards and requirements under its ordinance or
11 resolution are greater than those prescribed under this Act.

12 (b) In the event that the standards and requirements under
13 the ordinance or resolution of the municipality are greater
14 than those prescribed under this Act, the license issued by the
15 Department shall remain in effect pending reasonable
16 opportunity provided by the municipality, which shall be not
17 less than 60 days, for the licensee to comply with the local
18 requirements. Upon notice by the municipality, or upon the
19 Department's own determination that the licensee has failed to
20 qualify for a local license, the Department shall revoke such
21 license.

22 Section 3-107. The Department and the city, village or
23 incorporated town shall have the right at any time to visit and
24 inspect the premises and personnel of any facility for the
25 purpose of determining whether the applicant or licensee is in
26 compliance with this Act or with the local ordinances which
27 govern the regulation of the facility. The Department may
28 survey any former facility which once held a license to ensure
29 that the facility is not again operating without a license.
30 Municipalities may charge a reasonable license or renewal fee
31 for the regulation of facilities, which fees shall be in
32 addition to the fees paid to the Department.

33 Section 3-107.1. Notwithstanding any other provision of
34 this Act, the Attorney General, the State's Attorneys and

1 various law enforcement agencies of this State and its
2 political subdivisions shall have full and open access to any
3 facility pursuant to Article 108 of the Code of Criminal
4 Procedure of 1963 in the exercise of their investigatory and
5 prosecutorial powers in the enforcement of the criminal laws of
6 this State. Furthermore, the Attorney General, the State's
7 Attorneys and law enforcement agencies of this State shall
8 inform the Department of any violations of this Act of which
9 they have knowledge. Disclosure of matters before a grand jury
10 shall be made in accordance with Section 112-6 of the Code of
11 Criminal Procedure of 1963.

12 Section 3-108. The Department shall coordinate the
13 functions within State government affecting facilities
14 licensed under this Act and shall cooperate with other State
15 agencies which establish standards or requirements for
16 facilities to assure necessary, equitable, and consistent
17 State supervision of licensees without unnecessary duplication
18 of survey, evaluation, and consultation services or complaint
19 investigations. The Department shall cooperate with the
20 Department of Human Services in regard to facilities containing
21 more than 20% of residents for whom the Department of Human
22 Services has mandated follow up responsibilities under the
23 Mental Health and Developmental Disabilities Administrative
24 Act. The Department shall cooperate with the Department of
25 Healthcare and Family Services in regard to facilities where
26 recipients of public aid are residents. The Department shall
27 immediately refer to the Department of Financial and
28 Professional Regulation (as successor to the Department of
29 Professional Regulation) for investigation any credible
30 evidence of which it has knowledge that an individual licensed
31 by that Department has violated this Act or any rule issued
32 under this Act. The Department shall enter into agreements with
33 other State Departments, agencies or commissions to effectuate
34 the purpose of this Section.

1 Section 3-109. Upon receipt and review of an application
2 for a license made under this Article and inspection of the
3 applicant facility under this Article, the Director shall issue
4 a license if he finds:

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

13 (2) That the facility is under the supervision of an
14 administrator who is licensed, if required, under the
15 Nursing Home Administrators Licensing and Disciplinary
16 Act, as now or hereafter amended; and

17 (3) That the facility is in substantial compliance with
18 this Act, and such other requirements for a license as the
19 Department by rule may establish under this Act.

20 Section 3-110.

21 (a) Any license granted by the Director shall state the
22 maximum bed capacity for which it is granted, the date the
23 license was issued, and the expiration date. Except as provided
24 in subsection (b), such licenses shall normally be issued for a
25 period of one year. However, the Director may issue licenses or
26 renewals for periods of not less than 6 months nor more than 18
27 months for facilities with annual licenses and not less than 18
28 months nor more than 30 months for facilities with 2-year
29 licenses in order to distribute the expiration dates of such
30 licenses throughout the calendar year, and fees for such
31 licenses shall be prorated on the basis of the portion of a
32 year for which they are issued. Each license shall be issued
33 only for the premises and persons named in the application and
34 shall not be transferable or assignable.

35 The Department shall require the licensee to comply with

1 the requirements of a court order issued under Section 3-515,
2 as a condition of licensing.

3 (b) A license for a period of 2 years shall be issued to a
4 facility if the facility:

5 (1) has not received a Type "A" violation within the
6 last 24 months;

7 (2) has not received a Type "B" violation within the
8 last 24 months;

9 (3) has not had an inspection, survey, or evaluation
10 that resulted in the issuance of 10 or more administrative
11 warnings in the last 24 months;

12 (4) has not had an inspection, survey, or evaluation
13 that resulted in an administrative warning issued for a
14 violation of Sections 3-401 through 3-413 in the last 24
15 months;

16 (5) has not been issued an order to reimburse a
17 resident for a violation of Article II under subsection (6)
18 of Section 3-305 in the last 24 months; and

19 (6) has not been subject to sanctions or
20 decertification for violations in relation to patient care
21 of a facility under Titles XVIII and XIX of the federal
22 Social Security Act within the last 24 months.

23 If a facility with a 2-year license fails to meet the
24 conditions in items (1) through (6) of this subsection, in
25 addition to any other sanctions that may be applied by the
26 Department under this Act, the facility's 2-year license shall
27 be replaced by a one year license until such time as the
28 facility again meets the conditions in items (1) through (6) of
29 this subsection.

30 Section 3-111. The issuance or renewal of a license after
31 notice of a violation has been sent shall not constitute a
32 waiver by the Department of its power to rely on the violation
33 as the basis for subsequent license revocation or other
34 enforcement action under this Act arising out of the notice of
35 violation.

1 Section 3-112.

2 (a) Whenever ownership of a facility is transferred from
3 the person named in the license to any other person, the
4 transferee must obtain a new probationary license. The
5 transferee shall notify the Department of the transfer and
6 apply for a new license at least 30 days prior to final
7 transfer.

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

12 Section 3-113. The license granted to the transferee shall
13 be subject to the plan of correction submitted by the previous
14 owner and approved by the Department and any conditions
15 contained in a conditional license issued to the previous
16 owner. If there are outstanding violations and no approved plan
17 of correction has been implemented, the Department may issue a
18 conditional license and plan of correction as provided in
19 Sections 3-311 through 3-317.

20 Section 3-114. The transferor shall remain liable for all
21 penalties assessed against the facility which are imposed for
22 violations occurring prior to transfer of ownership.

23 Section 3-115. License renewal application. At least 120
24 days but not more than 150 days prior to license expiration,
25 the licensee shall submit an application for renewal of the
26 license in such form and containing such information as the
27 Department requires. If the application is approved, the
28 license shall be renewed in accordance with Section 3-110. The
29 renewal application for a facility shall not be approved unless
30 the applicant has provided to the Department an accurate
31 disclosure document in accordance with the Alzheimer's Special
32 Care Disclosure Act. If application for renewal is not timely

1 filed, the Department shall so inform the licensee.

2 Section 3-116. If the applicant has not been previously
3 licensed or if the facility is not in operation at the time
4 application is made, the Department shall issue only a
5 probationary license. A probationary license shall be valid for
6 120 days unless sooner suspended or revoked under Section
7 3-119. Within 30 days prior to the termination of a
8 probationary license, the Department shall fully and
9 completely inspect the facility and, if the facility meets the
10 applicable requirements for licensure, shall issue a license
11 under Section 3-109. If the Department finds that the facility
12 does not meet the requirements for licensure but has made
13 substantial progress toward meeting those requirements, the
14 license may be renewed once for a period not to exceed 120 days
15 from the expiration date of the initial probationary license.

16 Section 3-117. An application for a license may be denied
17 for any of the following reasons:

18 (1) Failure to meet any of the minimum standards set
19 forth by this Act or by rules and regulations promulgated
20 by the Department under this Act;

21 (2) Conviction of the applicant, or if the applicant is
22 a firm, partnership or association, of any of its members,
23 or if a corporation, the conviction of the corporation or
24 any of its officers or stockholders, or of the person
25 designated to manage or supervise the facility, of a
26 felony, or of 2 or more misdemeanors involving moral
27 turpitude, during the previous 5 years as shown by a
28 certified copy of the record of the court of conviction;

29 (3) Personnel insufficient in number or unqualified by
30 training or experience to properly care for the proposed
31 number and type of residents;

32 (4) Insufficient financial or other resources to
33 operate and conduct the facility in accordance with
34 standards promulgated by the Department under this Act;

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

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

19 Section 3-118. Immediately upon the denial of any
20 application or reapplication for a license under this Article,
21 the Department shall notify the applicant in writing. Notice of
22 denial shall include a clear and concise statement of the
23 violations of Section 3-117 on which denial is based and notice
24 of the opportunity for a hearing under Section 3-703. If the
25 applicant desires to contest the denial of a license, it shall
26 provide written notice to the Department of a request for a
27 hearing within 10 days after receipt of the notice of denial.
28 The Department shall commence the hearing under Section 3-703.

29 Section 3-119.

30 (a) The Department, after notice to the applicant or licensee,
31 may suspend, revoke or refuse to renew a license in any case in
32 which the Department finds any of the following:

33 (1) There has been a substantial failure to comply with
34 this Act or the rules and regulations promulgated by the

1 Department under this Act;

2 (2) Conviction of the licensee, or of the person
3 designated to manage or supervise the facility, of a
4 felony, or of 2 or more misdemeanors involving moral
5 turpitude, during the previous 5 years as shown by a
6 certified copy of the record of the court of conviction;

7 (3) Personnel is insufficient in number or unqualified
8 by training or experience to properly care for the number
9 and type of residents served by the facility;

10 (4) Financial or other resources are insufficient to
11 conduct and operate the facility in accordance with
12 standards promulgated by the Department under this Act; and

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

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

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

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

30 (1) Until otherwise ordered by the circuit court,
31 revocation is effective on the date set by the Department
32 in the notice of revocation, or upon final action after
33 hearing under Section 3-703, whichever is later;

34 (2) Until otherwise ordered by the circuit court,
35 nonrenewal is effective on the date of expiration of any
36 existing license, or upon final action after hearing under

1 Section 3-703, whichever is later; however, a license shall
2 not be deemed to have expired if the Department fails to
3 timely respond to a timely request for renewal under this
4 Act or for a hearing to contest nonrenewal under paragraph
5 (c); or

6 (3) The Department may extend the effective date of
7 license revocation or expiration in any case in order to
8 permit orderly removal and relocation of residents. The
9 Department may refuse to issue or may suspend the license
10 of any person who fails to file a return, or to pay the
11 tax, penalty or interest shown in a filed return, or to pay
12 any final assessment of tax, penalty or interest, as
13 required by any tax Act administered by the Illinois
14 Department of Revenue, until such time as the requirements
15 of any such tax Act are satisfied.

16 PART 2. GENERAL PROVISIONS

17 Section 3-201. The Department shall not prescribe the
18 course of medical treatment provided to an individual resident
19 by the resident's physician in a facility.

20 Section 3-202. The Department shall prescribe minimum
21 standards for facilities. These standards shall regulate:

22 (1) Location and construction of the facility,
23 including plumbing, heating, lighting, ventilation, and
24 other physical conditions which shall ensure the health,
25 safety, and comfort of residents and their protection from
26 fire hazard;

27 (2) Number and qualifications of all personnel,
28 including management and nursing personnel, having
29 responsibility for any part of the care given to residents;
30 specifically, the Department shall establish staffing
31 ratios for facilities which shall specify the number of
32 staff hours per resident of care that are needed for
33 professional nursing care for various types of facilities

1 or areas within facilities;

2 (3) All sanitary conditions within the facility and its
3 surroundings, including water supply, sewage disposal,
4 food handling, and general hygiene, which shall ensure the
5 health and comfort of residents;

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

9 (5) Equipment essential to the health and welfare of
10 the residents;

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

13 (7) A program for adequate maintenance of physical
14 plant and equipment;

15 (8) Adequate accommodations, staff and services for
16 the number and types of residents for whom the facility is
17 licensed to care, including standards for temperature and
18 relative humidity within comfort zones determined by the
19 Department based upon a combination of air temperature,
20 relative humidity and air movement. Such standards shall
21 also require facility plans that provide for health and
22 comfort of residents at medical risk as determined by the
23 attending physician whenever the temperature and relative
24 humidity are outside such comfort zones established by the
25 Department.

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

29 (10) Maintenance of minimum financial or other
30 resources necessary to meet the standards established
31 under this Section, and to operate and conduct the facility
32 in accordance with this Act.

33 Section 3-202.1. The Department shall develop and
34 implement a system of alerting and educating facilities and
35 their personnel as to the existence or possibility of weather

1 or other hazardous circumstances which may endanger resident
2 health or safety and designating any precautions to prevent or
3 minimize such danger. The Department may assist any facility
4 experiencing difficulty in dealing with such emergencies. The
5 Department may provide for announcement to the public of the
6 dangers posed to facility residents by such existing or
7 potential weather or hazardous circumstances.

8 Section 3-202.3. Identified offenders as residents. No
9 later than 30 days after July 11, 2005 (the effective date of
10 Public Act 94-163), the Department shall file with the Illinois
11 Secretary of State's Office, pursuant to the Illinois
12 Administrative Procedure Act, emergency rules regarding the
13 provision of services to identified offenders. The emergency
14 rules shall provide for, or include, but not be limited to the
15 following:

16 (1) A process for the identification of identified
17 offenders.

18 (2) A required risk assessment of identified
19 offenders.

20 (3) A requirement that a licensed facility be required,
21 within 10 days of the filing of the emergency rules, to
22 compare its residents against the Illinois Department of
23 Corrections and Illinois State Police registered sex
24 offender databases.

25 (4) A requirement that the licensed facility notify the
26 Department within 48 hours of determining that a resident
27 or residents of the licensed facility are listed on the
28 Illinois Department of Corrections or Illinois State
29 Police registered sex offender databases.

30 (5) The care planning of identified offenders, which
31 shall include, but not be limited to, a description of the
32 security measures necessary to protect facility residents
33 from the identified offender, including whether the
34 identified offender should be segregated from other
35 facility residents.

1 (6) For offenders serving terms of probation for felony
2 offenses, parole, or mandatory supervised release, the
3 facility shall acknowledge the terms of release as imposed
4 by the court or Illinois Prisoner Review Board.

5 (7) The discharge planning for identified offenders.

6 Section 3-202.4. Feasibility of segregating identified
7 offenders. The Department shall determine the feasibility of
8 requiring identified offenders that seek admission to a
9 licensed facility to be segregated from other residents. The
10 Department shall report its findings to the General Assembly
11 and the Office of the Governor not later than 6 months after
12 July 11, 2005 (the effective date of Public Act 94-163).

13 Section 3-202.5. Facility plan review; fees.

14 (a) Before commencing construction of a new facility or
15 specified types of alteration or additions to an existing long
16 term care facility involving major construction, as defined by
17 rule by the Department, with an estimated cost greater than
18 \$100,000, architectural drawings and specifications for the
19 facility shall be submitted to the Department for review and
20 approval. A facility may submit architectural drawings and
21 specifications for other construction projects for Department
22 review according to subsection (b) that shall not be subject to
23 fees under subsection (d). Review of drawings and
24 specifications shall be conducted by an employee of the
25 Department meeting the qualifications established by the
26 Department of Central Management Services class specifications
27 for such an individual's position or by a person contracting
28 with the Department who meets those class specifications. Final
29 approval of the drawings and specifications for compliance with
30 design and construction standards shall be obtained from the
31 Department before the alteration, addition, or new
32 construction is begun.

33 (b) The Department shall inform an applicant in writing
34 within 10 working days after receiving drawings and

1 specifications and the required fee, if any, from the applicant
2 whether the applicant's submission is complete or incomplete.
3 Failure to provide the applicant with this notice within 10
4 working days shall result in the submission being deemed
5 complete for purposes of initiating the 60 day review period
6 under this Section. If the submission is incomplete, the
7 Department shall inform the applicant of the deficiencies with
8 the submission in writing. If the submission is complete the
9 required fee, if any, has been paid, the Department shall
10 approve or disapprove drawings and specifications submitted to
11 the Department no later than 60 days following receipt by the
12 Department. The drawings and specifications shall be of
13 sufficient detail, as provided by Department rule, to enable
14 the Department to render a determination of compliance with
15 design and construction standards under this Act. If the
16 Department finds that the drawings are not of sufficient detail
17 for it to render a determination of compliance, the plans shall
18 be determined to be incomplete and shall not be considered for
19 purposes of initiating the 60 day review period. If a
20 submission of drawings and specifications is incomplete, the
21 applicant may submit additional information. The 60 day review
22 period shall not commence until the Department determines that
23 a submission of drawings and specifications is complete or the
24 submission is deemed complete. If the Department has not
25 approved or disapproved the drawings and specifications within
26 60 days, the construction, major alteration, or addition shall
27 be deemed approved. If the drawings and specifications are
28 disapproved, the Department shall state in writing, with
29 specificity, the reasons for the disapproval. The entity
30 submitting the drawings and specifications may submit
31 additional information in response to the written comments from
32 the Department or request a reconsideration of the disapproval.
33 A final decision of approval or disapproval shall be made
34 within 45 days of the receipt of the additional information or
35 reconsideration request. If denied, the Department shall state
36 the specific reasons for the denial.

1 (c) The Department shall provide written approval for
2 occupancy pursuant to subsection (g) and shall not issue a
3 violation to a facility as a result of a licensure or complaint
4 survey based upon the facility's physical structure if:

5 (1) the Department reviewed and approved or deemed
6 approved the drawings and specifications for compliance
7 with design and construction standards;

8 (2) the construction, major alteration, or addition
9 was built as submitted;

10 (3) the law or rules have not been amended since the
11 original approval; and

12 (4) the conditions at the facility indicate that there
13 is a reasonable degree of safety provided for the
14 residents.

15 (d) The Department shall charge the following fees in
16 connection with its reviews conducted before June 30, 2004
17 under this Section:

18 (1) (Blank).

19 (2) (Blank).

20 (3) If the estimated dollar value of the alteration,
21 addition, or new construction is \$100,000 or more but less
22 than \$500,000, the fee shall be the greater of \$2,400 or
23 1.2% of that value.

24 (4) If the estimated dollar value of the alteration,
25 addition, or new construction is \$500,000 or more but less
26 than \$1,000,000, the fee shall be the greater of \$6,000 or
27 0.96% of that value.

28 (5) If the estimated dollar value of the alteration,
29 addition, or new construction is \$1,000,000 or more but
30 less than \$5,000,000, the fee shall be the greater of
31 \$9,600 or 0.22% of that value.

32 (6) If the estimated dollar value of the alteration,
33 addition, or new construction is \$5,000,000 or more, the
34 fee shall be the greater of \$11,000 or 0.11% of that value,
35 but shall not exceed \$40,000. The fees provided in this
36 subsection (d) shall not apply to major construction

1 projects involving facility changes that are required by
2 Department rule amendments. The fees provided in this
3 subsection (d) shall also not apply to major construction
4 projects if 51% or more of the estimated cost of the
5 project is attributed to capital equipment. For major
6 construction projects where 51% or more of the estimated
7 cost of the project is attributed to capital equipment, the
8 Department shall by rule establish a fee that is reasonably
9 related to the cost of reviewing the project. The
10 Department shall not commence the facility plan review
11 process under this Section until the applicable fee has
12 been paid.

13 (e) All fees received by the Department under this Section
14 shall be deposited into the Health Facility Plan Review Fund, a
15 special fund created in the State Treasury. All fees paid by
16 long term care facilities under subsection (d) shall be used
17 only to cover the costs relating to the Department's review of
18 long term care facility projects under this Section. Moneys
19 shall be appropriated from that Fund to the Department only to
20 pay the costs of conducting reviews under this Section or under
21 Section 3-202.5 of the Nursing Home Care Act. None of the
22 moneys in the Health Facility Plan Review Fund shall be used to
23 reduce the amount of General Revenue Fund moneys appropriated
24 to the Department for facility plan reviews conducted pursuant
25 to this Section.

26 (f) (Blank).

27 (g) The Department shall conduct an on site inspection of
28 the completed project no later than 30 days after notification
29 from the applicant that the project has been completed and all
30 certifications required by the Department have been received
31 and accepted by the Department. The Department shall provide
32 written approval for occupancy to the applicant within 5
33 working days of the Department's final inspection, provided the
34 applicant has demonstrated substantial compliance as defined
35 by Department rule. Occupancy of new major construction is
36 prohibited until Department approval is received, unless the

1 Department has not acted within the time frames provided in
2 this subsection (g), in which case the construction shall be
3 deemed approved. Occupancy shall be authorized after any
4 required health inspection by the Department has been
5 conducted.

6 (h) The Department shall establish, by rule, a procedure to
7 conduct interim on site review of large or complex construction
8 projects.

9 (i) The Department shall establish, by rule, an expedited
10 process for emergency repairs or replacement of like equipment.

11 (j) Nothing in this Section shall be construed to apply to
12 maintenance, upkeep, or renovation that does not affect the
13 structural integrity of the building, does not add beds or
14 services over the number for which the long term care facility
15 is licensed, and provides a reasonable degree of safety for the
16 residents.

17 Section 3-203. In licensing any facility for persons with a
18 developmental disability or persons suffering from emotional
19 or behavioral disorders, the Department shall consult with the
20 Department of Human Services in developing minimum standards
21 for such persons.

22 Section 3-204. In addition to the authority to prescribe
23 minimum standards, the Department may adopt license
24 classifications of facilities according to the levels of
25 service, and if license classification is adopted the
26 applicable minimum standards shall define the classification.
27 In adopting classification of the license of facilities, the
28 Department may give recognition to the classification of
29 services defined or prescribed by federal statute or federal
30 rule or regulation. More than one classification of the license
31 may be issued to the same facility when the prescribed minimum
32 standards and regulations are met.

33 Section 3-205. Where licensing responsibilities are

1 performed by a city, village or incorporated town, the
2 municipality shall use the same classifications as the
3 Department; and a facility may not be licensed for a different
4 classification by the Department than by the municipality.

5 Section 3-206. The Department shall prescribe a curriculum
6 for 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 Financial and
15 Professional Regulation, assist with the personal, medical, or
16 nursing care of residents in a facility, unless such person
17 meets the 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
25 any, and residence for 2 years prior to his present
26 employment;

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

29 (5) Begin a current course of training for nursing
30 assistants, habilitation aides, or child care aides,
31 approved by the Department, within 45 days of initial
32 employment in the capacity of a nursing assistant,
33 habilitation aide, or child care aide at any facility. Such
34 courses of training shall be successfully completed within
35 120 days of initial employment in the capacity of nursing

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

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

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

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

30 (6) Be familiar with and have general skills related to
31 resident care.

32 (a-0.5) An educational entity, other than a
33 secondary school, conducting a nursing assistant,
34 habilitation aide, or child care aide training program
35 shall initiate a UCIA criminal history record check
36 prior to entry of an individual into the training

1 program. A secondary school may initiate a UCIA
2 criminal history record check prior to the entry of an
3 individual into a training program.

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

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

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

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

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

28 (f) Any facility that is operated under Section
29 3-803 shall be exempt from the requirements of this
30 Section.

31 (g) Each skilled nursing and intermediate care
32 facility that admits persons who are diagnosed as
33 having Alzheimer's disease or related dementias shall
34 require all nursing assistants, habilitation aides, or
35 child care aides, who did not receive 12 hours of
36 training in the care and treatment of such residents

1 during the training required under paragraph (5) of
2 subsection (a), to obtain 12 hours of in house training
3 in the care and treatment of such residents. If the
4 facility does not provide the training in house, the
5 training shall be obtained from other facilities,
6 community colleges or other educational institutions
7 that have a recognized course for such training. The
8 Department shall, by rule, establish a recognized
9 course for such training.

10 The Department's rules shall provide that such training may
11 be conducted in house at each facility subject to the
12 requirements of this subsection, in which case such training
13 shall be monitored by the Department. The Department's rules
14 shall also provide for circumstances and procedures whereby any
15 person who has received training that meets the requirements of
16 this subsection shall not be required to undergo additional
17 training if he or she is transferred to or obtains employment
18 at a different facility but remains continuously employed as a
19 nursing assistant, habilitation aide, or child care aide.
20 Licensed sheltered care facilities shall be exempt from the
21 requirements of this Section.

22 Section 3-206.01. Nurse aide registry.

23 (a) The Department shall establish and maintain a registry
24 of all individuals who have satisfactorily completed the
25 training required by Section 3-206. The registry shall include
26 the name of the nursing assistant, habilitation aide, or child
27 care aide, his or her current address, Social Security number,
28 and the date and location of the training course completed by
29 the individual, and the date of the individual's last criminal
30 records check. Any individual placed on the registry is
31 required to inform the Department of any change of address
32 within 30 days. A facility shall not employ an individual as a
33 nursing assistant, habilitation aide, or child care aide unless
34 the facility has inquired of the Department as to information
35 in the registry concerning the individual and shall not employ

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

4 If the Department finds that a nursing assistant,
5 habilitation aide, or child care aide has abused a resident,
6 neglected a resident, or misappropriated resident property in a
7 facility, the Department shall notify the individual of this
8 finding by certified mail sent to the address contained in the
9 registry. The notice shall give the individual an opportunity
10 to contest the finding in a hearing before the Department or to
11 submit a written response to the findings in lieu of requesting
12 a hearing. If, after a hearing or if the individual does not
13 request a hearing, the Department finds that the individual
14 abused a resident, neglected a resident, or misappropriated
15 resident property in a facility, the finding shall be included
16 as part of the registry as well as a brief statement from the
17 individual, if he or she chooses to make such a statement. The
18 Department shall make information in the registry available to
19 the public. In the case of inquiries to the registry concerning
20 an individual listed in the registry, any information disclosed
21 concerning such a finding shall also include disclosure of any
22 statement in the registry relating to the finding or a clear
23 and accurate summary of the statement.

24 (b) The Department shall add to the nurse aide registry
25 records of findings as reported by the Inspector General or
26 remove from the nurse aide registry records of findings as
27 reported by the Department of Human Services, under Section 6.2
28 of the Abused and Neglected Long Term Care Facility Residents
29 Reporting Act.

30 Section 3-206.02.

31 (a) The Department, after notice to the nursing assistant,
32 habilitation aide, or child care aide, may denote that the
33 Department has found any of the following:

34 (1) The nursing assistant, habilitation aide, or child
35 care aide has abused a resident.

1 (2) The nursing assistant, habilitation aide, or child
2 care aide has neglected a resident.

3 (3) The nursing assistant, habilitation aide, or child
4 care aide has misappropriated resident property.

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

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

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

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

25 (d) At any time after the designation on the registry
26 pursuant to subsection (a), (b), or (c) of this Section, a
27 nursing assistant, habilitation aide, or child care aide may
28 petition the Department for removal of designation on the
29 registry. The Department may remove the designation of the
30 nursing assistant, habilitation aide, or child care aide on the
31 registry unless, after an investigation and a hearing, the
32 Department determines that removal of designation is not in the
33 public interest.

34 Section 3-206.03. Resident attendants.

35 (a) As used in this Section, "resident attendant" means an

1 individual who assists residents in a facility with the
2 following activities:

3 (1) eating and drinking; and

4 (2) personal hygiene limited to washing a resident's
5 hands and face, brushing and combing a resident's hair,
6 oral hygiene, shaving residents with an electric razor, and
7 applying makeup.

8 The term "resident attendant" does not include an
9 individual who:

10 (1) is a licensed health professional or a registered
11 dietitian;

12 (2) volunteers without monetary compensation;

13 (3) is a nurse assistant; or

14 (4) performs any nursing or nursing related services
15 for residents of a facility.

16 (b) A facility may employ resident attendants to assist the
17 nurse aides with the activities authorized under subsection
18 (a). The resident attendants shall not count in the minimum
19 staffing requirements under rules implementing this Act.

20 (c) A facility may not use on a full time or other paid
21 basis any individual as a resident attendant in the facility
22 unless the individual:

23 (1) has completed a training and competency evaluation
24 program encompassing the tasks the individual provides;
25 and

26 (2) is competent to provide feeding, hydration, and
27 personal hygiene services.

28 (d) The training and competency evaluation program may be
29 facility based. It may include one or more of the following
30 units:

31 (1) A feeding unit that is a maximum of 5 hours in
32 length.

33 (2) A hydration unit that is a maximum of 3 hours in
34 length.

35 (3) A personal hygiene unit that is a maximum of 5
36 hours in length. These programs must be reviewed and

1 approved by the Department every 2 years.

2 (f) A person seeking employment as a resident attendant is
3 subject to the Health Care Worker Background Check Act.

4 Section 3-206.1. Whenever ownership of a private facility
5 is transferred to another private owner following a final order
6 for a suspension or revocation of the facility's license, the
7 Department shall discuss with the new owner all noted problems
8 associated with the facility and shall determine what
9 additional training, if any, is needed for the direct care
10 staff.

11 Section 3-207.

12 (a) As a condition of the issuance or renewal of the
13 license of any facility, the applicant shall file a statement
14 of ownership. The applicant shall update the information
15 required in the statement of ownership within 10 days of any
16 change.

17 (b) The statement of ownership shall include the following:

18 (1) The name, address, telephone number, occupation or
19 business activity, business address and business telephone
20 number of the person who is the owner of the facility and
21 every person who owns the building in which the facility is
22 located, if other than the owner of the facility, which is
23 the subject of the application or license; and if the owner
24 is a partnership or corporation, the name of every partner
25 and stockholder of the owner;

26 (2) The name and address of any facility, wherever
27 located, any financial interest in which is owned by the
28 applicant, if the facility were required to be licensed if
29 it were located in this State;

30 (3) Other information necessary to determine the
31 identity and qualifications of an applicant or licensee to
32 operate a facility in accordance with this Act as required
33 by the Department in regulations.

34 (c) The information in the statement of ownership shall be

1 public information and shall be available from the Department.

2 Section 3-208.

3 (a) Each licensee shall file annually, or more often as the
4 Director shall by rule prescribe an attested financial
5 statement. The Director may order an audited financial
6 statement of a particular facility by an auditor of the
7 Director's choice, provided the cost of such audit is paid by
8 the Department.

9 (b) No public funds shall be expended for the maintenance
10 of any resident in a facility which has failed to file the
11 financial statement required under this Section and no public
12 funds shall be paid to or on behalf of a facility which has
13 failed to file a statement.

14 (c) The Director of Public Health and the Director of
15 Healthcare and Family Services shall promulgate under Sections
16 3-801 and 3-802, one set of regulations for the filing of these
17 financial statements, and shall provide in these regulations
18 for forms, required information, intervals and dates of filing
19 and such other provisions as they may deem necessary.

20 (d) The Director of Public Health and the Director of
21 Healthcare and Family Services shall seek the advice and
22 comments of other State and federal agencies which require the
23 submission of financial data from facilities licensed under
24 this Act and shall incorporate the information requirements of
25 these agencies so as to impose the least possible burden on
26 licensees. No other State agency may require submission of
27 financial data except as expressly authorized by law or as
28 necessary to meet requirements of federal statutes or
29 regulations. Information obtained under this Section shall be
30 made available, upon request, by the Department to any other
31 State agency or legislative commission to which such
32 information is necessary for investigations or required for the
33 purposes of State or federal law or regulation.

34 Section 3-209. Every facility shall conspicuously post

1 for display in an area of its offices accessible to residents,
2 employees, and visitors the following:

3 (1) Its current license;

4 (2) A description, provided by the Department, of
5 complaint procedures established under this Act and the
6 name, address, and telephone number of a person authorized
7 by the Department to receive complaints;

8 (3) A copy of any order pertaining to the facility
9 issued by the Department or a court; and

10 (4) A list of the material available for public
11 inspection under Section 3-210.

12 Section 3-210.

13 A facility shall retain the following for public
14 inspection:

15 (1) A complete copy of every inspection report of the
16 facility received from the Department during the past 5
17 years;

18 (2) A copy of every order pertaining to the facility
19 issued by the Department or a court during the past 5
20 years;

21 (3) A description of the services provided by the
22 facility and the rates charged for those services and items
23 for which a resident may be separately charged;

24 (4) A copy of the statement of ownership required by
25 Section 3-207;

26 (5) A record of personnel employed or retained by the
27 facility who are licensed, certified or registered by the
28 Department of Financial and Professional Regulation (as
29 successor to the Department of Professional Regulation);
30 and

31 (6) A complete copy of the most recent inspection
32 report of the facility received from the Department.

33 Section 3-211. No State or federal funds which are
34 appropriated by the General Assembly or which pass through the

1 General Revenue Fund or any special fund in the State Treasury
2 shall be paid to a facility not having a license issued under
3 this Act.

4 Section 3-212. Inspection.

5 (a) The Department, whenever it deems necessary in
6 accordance with subsection (b), shall inspect, survey and
7 evaluate every facility to determine compliance with
8 applicable licensure requirements and standards. An inspection
9 should occur within 120 days prior to license renewal. The
10 Department may periodically visit a facility for the purpose of
11 consultation. An inspection, survey, or evaluation, other than
12 an inspection of financial records, shall be conducted without
13 prior notice to the facility. A visit for the sole purpose of
14 consultation may be announced. The Department shall provide
15 training to surveyors about the appropriate assessment, care
16 planning, and care of persons with mental illness (other than
17 Alzheimer's disease or related disorders) to enable its
18 surveyors to determine whether a facility is complying with
19 State and federal requirements about the assessment, care
20 planning, and care of those persons.

21 (a-1) An employee of a State or unit of local government
22 agency charged with inspecting, surveying, and evaluating
23 facilities who directly or indirectly gives prior notice of an
24 inspection, survey, or evaluation, other than an inspection of
25 financial records, to a facility or to an employee of a
26 facility is guilty of a Class A misdemeanor. An inspector or an
27 employee of the Department who intentionally prenotifies a
28 facility, orally or in writing, of a pending complaint
29 investigation or inspection shall be guilty of a Class A
30 misdemeanor. Superiors of persons who have prenotified a
31 facility shall be subject to the same penalties, if they have
32 knowingly allowed the prenotification. A person found guilty of
33 prenotifying a facility shall be subject to disciplinary action
34 by his or her employer. If the Department has a good faith
35 belief, based upon information that comes to its attention,

1 that a violation of this subsection has occurred, it must file
2 a complaint with the Attorney General or the State's Attorney
3 in the county where the violation took place within 30 days
4 after discovery of the information.

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

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

25 (b-1) The Department shall not be required to determine
26 whether a facility certified to participate in the Medicare
27 program under Title XVIII of the Social Security Act, or the
28 Medicaid program under Title XIX of the Social Security Act,
29 and which the Department determines by inspection under this
30 Section or under Section 3-702 of this Act to be in compliance
31 with the certification requirements of Title XVIII or XIX, is
32 in compliance with any requirement of this Act that is less
33 stringent than or duplicates a federal certification
34 requirement. In accordance with subsection (a) of this Section
35 or subsection (d) of Section 3-702, the Department shall
36 determine whether a certified facility is in compliance with

1 requirements of this Act that exceed federal certification
2 requirements. If a certified facility is found to be out of
3 compliance with federal certification requirements, the
4 results of an inspection conducted pursuant to Title XVIII or
5 XIX of the Social Security Act may be used as the basis for
6 enforcement remedies authorized and commenced under this Act.
7 Enforcement of this Act against a certified facility shall be
8 commenced pursuant to the requirements of this Act, unless
9 enforcement remedies sought pursuant to Title XVIII or XIX of
10 the Social Security Act exceed those authorized by this Act. As
11 used in this subsection, "enforcement remedy" means a sanction
12 for violating a federal certification requirement or this Act.

13 (c) Upon completion of each inspection, survey and
14 evaluation, the appropriate Department personnel who conducted
15 the inspection, survey or evaluation shall submit a copy of
16 their report to the licensee upon exiting the facility, and
17 shall submit the actual report to the appropriate regional
18 office of the Department. Such report and any recommendations
19 for action by the Department under this Act shall be
20 transmitted to the appropriate offices of the associate
21 director of the Department, together with related comments or
22 documentation provided by the licensee which may refute
23 findings in the report, which explain extenuating
24 circumstances that the facility could not reasonably have
25 prevented, or which indicate methods and timetables for
26 correction of deficiencies described in the report. Without
27 affecting the application of subsection (a) of Section 3-303,
28 any documentation or comments of the licensee shall be provided
29 within 10 days of receipt of the copy of the report. Such
30 report shall recommend to the Director appropriate action under
31 this Act with respect to findings against a facility. The
32 Director shall then determine whether the report's findings
33 constitute a violation or violations of which the facility must
34 be given notice. Such determination shall be based upon the
35 severity of the finding, the danger posed to resident health
36 and safety, the comments and documentation provided by the

1 facility, the diligence and efforts to correct deficiencies,
2 correction of the reported deficiencies, the frequency and
3 duration of similar findings in previous reports and the
4 facility's general inspection history. Violations shall be
5 determined under this subsection no later than 60 days after
6 completion of each inspection, survey and evaluation.

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

10 Section 3-213. The Department shall require periodic
11 reports and shall have access to and may reproduce or photocopy
12 at its cost any books, records, and other documents maintained
13 by the facility to the extent necessary to carry out this Act
14 and the rules promulgated under this Act. The Department shall
15 not divulge or disclose the contents of a record under this
16 Section in violation of Section 2-206 or as otherwise
17 prohibited by this Act.

18 Section 3-214. Any holder of a license or applicant for a
19 license shall be deemed to have given consent to any authorized
20 officer, employee or agent of the Department to enter and
21 inspect the facility in accordance with this Article. Refusal
22 to permit such entry or inspection shall constitute grounds for
23 denial, nonrenewal or revocation of a license as provided in
24 Section 3-117 or 3-119 of this Act.

25 Section 3-215. The Department shall make at least one
26 report on each facility in the State annually, unless the
27 facility has been issued a 2-year license under subsection (b)
28 of Section 3-110 for which the report shall be made every
29 2-years. All conditions and practices not in compliance with
30 applicable standards within the report period shall be
31 specifically stated. If a violation is corrected or is subject
32 to an approved plan of correction, the same shall be specified
33 in the report. The Department shall send a copy to any person

1 on receiving a written request. The Department may charge a
2 reasonable fee to cover copying costs.

3 PART 3. VIOLATIONS AND PENALTIES

4 Section 3-301. If after receiving the report specified in
5 subsection (c) of Section 3-212 the Director or his designee
6 determines that a facility is in violation of this Act or of
7 any rule promulgated thereunder, he shall serve a notice of
8 violation upon the licensee within 10 days thereafter. Each
9 notice of violation shall be prepared in writing and shall
10 specify the nature of the violation, and the statutory
11 provision or rule alleged to have been violated. The notice
12 shall inform the licensee of any action the Department may take
13 under the Act, including the requirement of a facility plan of
14 correction under Section 3-303; placement of the facility on a
15 list prepared under Section 3-304; assessment of a penalty
16 under Section 3-305; a conditional license under Sections 3-311
17 through 3-317; or license suspension or revocation under
18 Section 3-119. The Director or his designee shall also inform
19 the licensee of rights to a hearing under Section 3-703.

20 Section 3-302. Each day the violation exists after the date
21 upon which a notice of violation is served under Section 3-301
22 shall constitute a separate violation for purposes of assessing
23 penalties or fines under Section 3-305. The submission of a
24 plan of correction pursuant to subsection (b) of Section 3-303
25 does not prohibit or preclude the Department from assessing
26 penalties or fines pursuant to Section 3-305 for those
27 violations found to be valid except as provided under Section
28 3-308 in relation to Type "B" violations. No penalty or fine
29 may be assessed for a condition for which the facility has
30 received a variance or waiver of a standard.

31 Section 3-303.

32 (a) The situation, condition or practice constituting a

1 Type "A" violation shall be abated or eliminated immediately
2 unless a fixed period of time, not exceeding 15 days, as
3 determined by the Department and specified in the notice of
4 violation, is required for correction.

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

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

25 (d) Upon a licensee's petition, the Department shall
26 determine whether to grant a licensee's request for an extended
27 correction time. Such petition shall be served on the
28 Department prior to expiration of the correction time
29 originally approved. The burden of proof is on the petitioning
30 facility to show good cause for not being able to comply with
31 the original correction time approved.

32 (e) If a facility desires to contest any Department action
33 under this Section it shall send a written request for a
34 hearing under Section 3-703 to the Department within 10 days of
35 receipt of notice of the contested action. The Department shall
36 commence the hearing as provided under Section 3-703. Whenever

1 possible, all action of the Department under this Section
2 arising out of a violation shall be contested and determined at
3 a single hearing. Issues decided after a hearing may not be
4 reheard at subsequent hearings under this Section.

5 Section 3-303.1. Upon application by a facility, the
6 Director may grant or renew the waiver of the facility's
7 compliance with a rule or standard for a period not to exceed
8 the duration of the current license or, in the case of an
9 application for license renewal, the duration of the renewal
10 period. The waiver may be conditioned upon the facility taking
11 action prescribed by the Director as a measure equivalent to
12 compliance. In determining whether to grant or renew a waiver,
13 the Director shall consider the duration and basis for any
14 current waiver with respect to the same rule or standard and
15 the validity and effect upon patient health and safety of
16 extending it on the same basis, the effect upon the health and
17 safety of residents, the quality of resident care, the
18 facility's history of compliance with the rules and standards
19 of this Act and the facility's attempts to comply with the
20 particular rule or standard in question. The Department may
21 provide, by rule, for the automatic renewal of waivers
22 concerning physical plant requirements upon the renewal of a
23 license. The Department shall renew waivers relating to
24 physical plant standards issued pursuant to this Section at the
25 time of the indicated reviews, unless it can show why such
26 waivers should not be extended for the following reasons:

27 (a) the condition of the physical plant has deteriorated or
28 its use substantially changed so that the basis upon which the
29 waiver was issued is materially different; or

30 (b) the facility is renovated or substantially remodeled in
31 such a way as to permit compliance with the applicable rules
32 and standards without substantial increase in cost. A copy of
33 each waiver application and each waiver granted or renewed
34 shall be on file with the Department and available for public
35 inspection. The Director shall annually review such file and

1 recommend to the Long-Term Care Facility Advisory Board
2 established under Section 2-204 of the Nursing Home Care Act
3 any modification in rules or standards suggested by the number
4 and nature of waivers requested and granted and the
5 difficulties faced in compliance by similarly situated
6 facilities.

7 Section 3-303.2.

8 (a) If the Department finds a situation, condition or
9 practice which violates this Act or any rule promulgated
10 thereunder which does not directly threaten the health, safety
11 or welfare of a resident, the Department shall issue an
12 administrative warning. Any administrative warning shall be
13 served upon the facility in the same manner as the notice of
14 violation under Section 3-301. The facility shall be
15 responsible for correcting the situation, condition or
16 practice; however, no written plan of correction need be
17 submitted for an administrative warning, except for violations
18 of Sections 3-401 through 3-413 or the rules promulgated
19 thereunder. A written plan of correction is required to be
20 filed for an administrative warning issued for violations of
21 Sections 3-401 through 3-413 or the rules promulgated
22 thereunder.

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

32 Section 3-304.

33 (a) The Department shall prepare on a quarterly basis a
34 list containing the names and addresses of all facilities

1 against which the Department during the previous quarter has:

2 (1) sent a notice under Section 3-307 regarding a
3 penalty assessment under subsection (1) of Section 3-305;

4 (2) sent a notice of license revocation under Section
5 3-119;

6 (3) sent a notice refusing renewal of a license under
7 Section 3-119;

8 (4) sent a notice to suspend a license under Section
9 3-119;

10 (5) issued a conditional license for violations that
11 have not been corrected under Section 3-303 or penalties or
12 fines described under Section 3-305 have been assessed
13 under Section 3-307 or 3-308;

14 (6) placed a monitor under subsections (a), (b) and (c)
15 of Section 3-501 and under subsection (d) of such Section
16 where license revocation or nonrenewal notices have also
17 been issued;

18 (7) initiated an action to appoint a receiver;

19 (8) recommended to the Director of the Department of
20 Healthcare and Family Services, or the Secretary of the
21 United States Department of Health and Human Services, the
22 decertification for violations in relation to patient care
23 of a facility pursuant to Titles XVIII and XIX of the
24 federal Social Security Act.

25 (b) In addition to the name and address of the facility,
26 the list shall include the name and address of the person or
27 licensee against whom the action has been initiated, a self
28 explanatory summary of the facts which warranted the initiation
29 of each action, the type of action initiated, the date of the
30 initiation of the action, the amount of the penalty sought to
31 be assessed, if any, and the final disposition of the action,
32 if completed.

33 (c) The list shall be available to any member of the public
34 upon oral or written request without charge.

35 Section 3-304.1. Public computer access to information.

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

5 (1) who regulates facilities licensed under this Act;

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

8 (3) deficiencies and plans of correction;

9 (4) enforcement remedies;

10 (5) penalty letters;

11 (6) designation of penalty monies;

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

15 (8) advisory standards;

16 (9) deficiency free surveys; and

17 (10) enforcement actions and enforcement summaries.

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

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

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

26 Section 3-305. The license of a facility which is in
27 violation of this Act or any rule adopted thereunder may be
28 subject to the penalties or fines levied by the Department as
29 specified in this Section.

30 (1) Unless a greater penalty or fine is allowed under
31 subsection (3), a licensee who commits a Type "A" violation
32 as defined in Section 1-129 is automatically issued a
33 conditional license for a period of 6 months to coincide
34 with an acceptable plan of correction and assessed a fine
35 computed at a rate of \$5.00 per resident in the facility

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

8 (2) A licensee who commits a Type "B" violation or who
9 is issued an administrative warning for a violation of
10 Sections 3-401 through 3-413 or the rules promulgated
11 thereunder is subject to a penalty computed at a rate of \$3
12 per resident in the facility, plus 15 cents per resident
13 for each day of the violation, commencing on the date a
14 notice of the violation is served under Section 3-301 and
15 ending on the date the violation is corrected, or a fine
16 not less than \$500, whichever is greater. Such fine shall
17 be assessed on the date of notice of the violation and
18 shall be suspended for violations that continue after such
19 date upon completion of a plan of correction in accordance
20 with Section 3-308 in relation to the assessment of fines
21 and correction. Failure to correct such violation within
22 the time period approved under a plan of correction shall
23 result in a fine and conditional license as provided under
24 subsection (5).

25 (3) A licensee who commits a Type "A" violation as
26 defined in Section 1-129 which continues beyond the time
27 specified in paragraph (a) of Section 3 303 which is cited
28 as a repeat violation shall have its license revoked and
29 shall be assessed a fine of 3 times the fine computed per
30 resident per day under subsection (1).

31 (4) A licensee who fails to satisfactorily comply with
32 an accepted plan of correction for a Type "B" violation or
33 an administrative warning issued pursuant to Sections
34 3-401 through 3-413 or the rules promulgated thereunder
35 shall be automatically issued a conditional license for a
36 period of not less than 6 months. A second or subsequent

1 acceptable plan of correction shall be filed. A fine shall
2 be assessed in accordance with subsection (2) when cited
3 for the repeat violation. This fine shall be computed for
4 all days of the violation, including the duration of the
5 first plan of correction compliance time.

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

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

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

28 Section 3-306. In determining whether a penalty is to be
29 imposed and in fixing the amount of the penalty to be imposed,
30 if any, for a violation, the Director shall consider the
31 following factors:

32 (1) The gravity of the violation, including the
33 probability that death or serious physical or mental harm
34 to a resident will result or has resulted; the severity of
35 the actual or potential harm, and the extent to which the

1 provisions of the applicable statutes or regulations were
2 violated;

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

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

7 (4) The financial benefit to the facility of committing
8 or continuing the violation.

9 Section 3-307. The Director may directly assess penalties
10 provided for under Section 3-305 of this Act. If the Director
11 determines that a penalty should be assessed for a particular
12 violation or for failure to correct it, he shall send a notice
13 to the facility. The notice shall specify the amount of the
14 penalty assessed, the violation, the statute or rule alleged to
15 have been violated, and shall inform the licensee of the right
16 to hearing under Section 3-703 of this Act. If the violation is
17 continuing, the notice shall specify the amount of additional
18 assessment per day for the continuing violation.

19 Section 3-308. In the case of a Type "A" violation, a
20 penalty may be assessed from the date on which the violation is
21 discovered. In the case of a Type "B" or Type "C" violation or
22 an administrative warning issued pursuant to Sections 3-401
23 through 3-413 or the rules promulgated thereunder, the facility
24 shall submit a plan of correction as provided in Section 3-303.
25 In the case of a Type "B" violation or an administrative
26 warning issued pursuant to Sections 3-401 through 3-413 or the
27 rules promulgated thereunder, a penalty shall be assessed on
28 the date of notice of the violation, but the Director may
29 reduce the amount or waive such payment for any of the
30 following reasons:

31 (a) The facility submits a true report of correction within
32 10 days;

33 (b) The facility submits a plan of correction within 10
34 days and subsequently submits a true report of correction

1 within 15 days thereafter;

2 (c) The facility submits a plan of correction within 10
3 days which provides for a correction time that is less than or
4 equal to 30 days and the Department approves such plan; or

5 (d) The facility submits a plan of correction for
6 violations involving substantial capital improvements which
7 provides for correction within the initial 90 day limit
8 provided under Section 3-303. The Director shall consider the
9 following factors in determinations to reduce or waive such
10 penalties:

11 (1) The violation has not caused actual harm to a
12 resident;

13 (2) The facility has made a diligent effort to correct
14 the violation and to prevent its recurrence;

15 (3) The facility has no record of a pervasive pattern
16 of the same or similar violations; and

17 (4) The facility has a record of substantial compliance
18 with this Act and the regulations promulgated hereunder.

19 If a plan of correction is approved and carried out for a
20 Type "C" violation, the fine provided under Section 3-305 shall
21 be suspended for the time period specified in the approved plan
22 of correction. If a plan of correction is approved and carried
23 out for a Type "B" violation or an administrative warning
24 issued pursuant to Sections 3-401 through 3-413 or the rules
25 promulgated thereunder, with respect to a violation that
26 continues after the date of notice of violation, the fine
27 provided under Section 3-305 shall be suspended for the time
28 period specified in the approved plan of correction.

29 If a good faith plan of correction is not received within
30 the time provided by Section 3-303, a penalty may be assessed
31 from the date of the notice of the Type "B" or "C" violation or
32 an administrative warning issued pursuant to Sections 3-401
33 through 3-413 or the rules promulgated thereunder served under
34 Section 3-301 until the date of the receipt of a good faith
35 plan of correction, or until the date the violation is
36 corrected, whichever is earlier. If a violation is not

1 corrected within the time specified by an approved plan of
2 correction or any lawful extension thereof, a penalty may be
3 assessed from the date of notice of the violation, until the
4 date the violation is corrected.

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

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

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

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

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

30 With the approval of the federal centers for Medicaid and
31 Medicare services, the Director of Public Health shall set
32 aside 50% of the federal civil monetary penalties collected
33 each year to be used to award grants under the Innovations in
34 Long term Care Quality Grants Act.

1 Section 3-311. In addition to the right to assess penalties
2 under this Act, the Director may issue a conditional license
3 under Section 3-305 to any facility if the Director finds that
4 either a Type "A" or Type "B" violation exists in such
5 facility. The issuance of a conditional license shall revoke
6 any license held by the facility.

7 Section 3-312. Prior to the issuance of a conditional
8 license, the Department shall review and approve a written plan
9 of correction. The Department shall specify the violations
10 which prevent full licensure and shall establish a time
11 schedule for correction of the deficiencies. Retention of the
12 license shall be conditional on the timely correction of the
13 deficiencies in accordance with the plan of correction.

14 Section 3-313. Written notice of the decision to issue a
15 conditional license shall be sent to the applicant or licensee
16 together with the specification of all violations of this Act
17 and the rules promulgated thereunder which prevent full
18 licensure and which form the basis for the Department's
19 decision to issue a conditional license and the required plan
20 of correction. The notice shall inform the applicant or
21 licensee of its right to a full hearing under Section 3-315 to
22 contest the issuance of the conditional license.

23 Section 3-315. If the applicant or licensee desires to
24 contest the basis for issuance of a conditional license, or the
25 terms of the plan of correction, the applicant or licensee
26 shall send a written request for hearing to the Department
27 within 10 days after receipt by the applicant or licensee of
28 the Department's notice and decision to issue a conditional
29 license. The Department shall hold the hearing as provided
30 under Section 3-703.

31 Section 3-316. A conditional license shall be issued for a

1 period specified by the Department, but in no event for more
2 than one year. The Department shall periodically inspect any
3 facility operating under a conditional license. If the
4 Department finds substantial failure by the facility to timely
5 correct the violations which prevented full licensure and
6 formed the basis for the Department's decision to issue a
7 conditional license in accordance with the required plan of
8 correction, the conditional license may be revoked as provided
9 under Section 3-119.

10 Section 3-318.

11 (a) No person shall:

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

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

21 (3) Intentionally prevent or attempt to prevent any
22 examination of any relevant books or records pertinent to
23 investigations and enforcement of this Act;

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

27 (5) Intentionally retaliate or discriminate against
28 any resident or employee for contacting or providing
29 information to any state official, or for initiating,
30 participating in, or testifying in an action for any remedy
31 authorized under this Act;

32 (6) Wilfully file any false, incomplete or
33 intentionally misleading information required to be filed
34 under this Act, or wilfully fail or refuse to file any
35 required information; or

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

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

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

9 Section 3-320. All final administrative decisions of the
10 Department under this Act are subject to judicial review under
11 the Administrative Review Law, as now or hereafter amended, and
12 the rules adopted pursuant thereto. The term "administrative
13 decision" is defined as in Section 3-101 of the Code of Civil
14 Procedure.

15 PART 4. DISCHARGE AND TRANSFER

16 Section 3-401. A facility may involuntarily transfer or
17 discharge a resident only for one or more of the following
18 reasons:

19 (a) for medical reasons;

20 (b) for the resident's physical safety;

21 (c) for the physical safety of other residents, the
22 facility staff or facility visitors; or

23 (d) for either late payment or nonpayment for the
24 resident's stay, except as prohibited by Titles XVIII and XIX
25 of the federal Social Security Act. For purposes of this
26 Section, "late payment" means non receipt of payment after
27 submission of a bill. If payment is not received within 45 days
28 after submission of a bill, a facility may send a notice to the
29 resident and responsible party requesting payment within 30
30 days. If payment is not received within such 30 days, the
31 facility may thereupon institute transfer or discharge
32 proceedings by sending a notice of transfer or discharge to the
33 resident and responsible party by registered or certified mail.

1 The notice shall state, in addition to the requirements of
2 Section 3-403 of this Act, that the responsible party has the
3 right to pay the amount of the bill in full up to the date the
4 transfer or discharge is to be made and then the resident shall
5 have the right to remain in the facility. Such payment shall
6 terminate the transfer or discharge proceedings. This
7 subsection does not apply to those residents whose care is
8 provided for under the Illinois Public Aid Code. The Department
9 shall adopt rules setting forth the criteria and procedures to
10 be applied in cases of involuntary transfer or discharge
11 permitted under this Section.

12 Section 3-401.1.

13 (a) A facility participating in the Medical Assistance
14 Program is prohibited from failing or refusing to retain as a
15 resident any person because he or she is a recipient of or an
16 applicant for the Medical Assistance Program.

17 (a-5) A facility of which only a distinct part is certified
18 to participate in the Medical Assistance Program may refuse to
19 retain as a resident any person who resides in a part of the
20 facility that does not participate in the Medical Assistance
21 Program and who is unable to pay for his or her care in the
22 facility without Medical Assistance only if:

23 (1) the facility, no later than at the time of
24 admission and at the time of the resident's contract
25 renewal, explains to the resident (unless he or she is
26 incompetent), and to the resident's representative, and to
27 the person making payment on behalf of the resident for the
28 resident's stay, in writing, that the facility may
29 discharge the resident if the resident is no longer able to
30 pay for his or her care in the facility without Medical
31 Assistance;

32 (2) the resident (unless he or she is incompetent), the
33 resident's representative, and the person making payment
34 on behalf of the resident for the resident's stay,
35 acknowledge in writing that they have received the written

1 explanation.

2 (a-10) For the purposes of this Section, a recipient or
3 applicant shall be considered a resident in the facility during
4 any hospital stay totaling 10 days or less following a hospital
5 admission. The Illinois Department of Healthcare and Family
6 Services shall recoup funds from a facility when, as a result
7 of the facility's refusal to readmit a recipient after
8 hospitalization for 10 days or less, the recipient incurs
9 hospital bills in an amount greater than the amount that would
10 have been paid by that Department for care of the recipient in
11 the facility. The amount of the recoupment shall be the
12 difference between the Illinois Department of Healthcare and
13 Family Services' payment for hospital care and the amount that
14 Department would have paid for care in the facility.

15 (b) A facility which violates this Section shall be guilty
16 of a business offense and fined not less than \$500 nor more
17 than \$1,000 for the first offense and not less than \$1,000 nor
18 more than \$5,000 for each subsequent offense.

19 Section 3-402. Involuntary transfer or discharge of a
20 resident from a facility shall be preceded by the discussion
21 required under Section 3-408 and by a minimum written notice of
22 21 days, except in one of the following instances:

23 (a) when an emergency transfer or discharge is ordered by
24 the resident's attending physician because of the resident's
25 health care needs; or

26 (b) when the transfer or discharge is mandated by the
27 physical safety of other residents, the facility staff, or
28 facility visitors, as documented in the clinical record. The
29 Department shall be notified prior to any such involuntary
30 transfer or discharge. The Department shall immediately offer
31 transfer, or discharge and relocation assistance to residents
32 transferred or discharged under this subparagraph (b), and the
33 Department may place relocation teams as provided in Section
34 3-419 of this Act.

1 Section 3-403. The notice required by Section 3-402 shall
2 be on a form prescribed by the Department and shall contain all
3 of the following:

4 (a) The stated reason for the proposed transfer or
5 discharge;

6 (b) The effective date of the proposed transfer or
7 discharge;

8 (c) A statement in not less than 12 point type, which
9 reads: "You have a right to appeal the facility's decision to
10 transfer or discharge you. If you think you should not have to
11 leave this facility, you may file a request for a hearing with
12 the Department of Public Health within 10 days after receiving
13 this notice. If you request a hearing, it will be held not
14 later than 10 days after your request, and you generally will
15 not be transferred or discharged during that time. If the
16 decision following the hearing is not in your favor, you
17 generally will not be transferred or discharged prior to the
18 expiration of 30 days following receipt of the original notice
19 of the transfer or discharge. A form to appeal the facility's
20 decision and to request a hearing is attached. If you have any
21 questions, call the Department of Public Health at the
22 telephone number listed below.";

23 (d) A hearing request form, together with a postage paid,
24 preaddressed envelope to the Department; and

25 (e) The name, address, and telephone number of the person
26 charged with the responsibility of supervising the transfer or
27 discharge.

28 Section 3-404. A request for a hearing made under Section
29 3-403 shall stay a transfer pending a hearing or appeal of the
30 decision, unless a condition which would have allowed transfer
31 or discharge in less than 21 days as described under paragraphs
32 (a) and (b) of Section 3-402 develops in the interim.

33 Section 3-405. A copy of the notice required by Section
34 3-402 shall be placed in the resident's clinical record and a

1 copy shall be transmitted to the Department, the resident, the
2 resident's representative, and, if the resident's care is paid
3 for in whole or part through Title XIX, to the Department of
4 Healthcare and Family Services.

5 Section 3-406. When the basis for an involuntary transfer
6 or discharge is the result of an action by the Department of
7 Healthcare and Family Services with respect to a recipient of
8 Title XIX and a hearing request is filed with the Department of
9 Healthcare and Family Services, the 21 day written notice
10 period shall not begin until a final decision in the matter is
11 rendered by the Department of Healthcare and Family Services or
12 a court of competent jurisdiction and notice of that final
13 decision is received by the resident and the facility.

14 Section 3-407. When nonpayment is the basis for involuntary
15 transfer or discharge, the resident shall have the right to
16 redeem up to the date that the discharge or transfer is to be
17 made and then shall have the right to remain in the facility.

18 Section 3-408. The planned involuntary transfer or
19 discharge shall be discussed with the resident, the resident's
20 representative and person or agency responsible for the
21 resident's placement, maintenance, and care in the facility.
22 The explanation and discussion of the reasons for involuntary
23 transfer or discharge shall include the facility administrator
24 or other appropriate facility representative as the
25 administrator's designee. The content of the discussion and
26 explanation shall be summarized in writing and shall include
27 the names of the individuals involved in the discussions and
28 made a part of the resident's clinical record.

29 Section 3-409. The facility shall offer the resident
30 counseling services before the transfer or discharge of the
31 resident.

1 Section 3-410. A resident subject to involuntary transfer
2 or discharge from a facility, the resident's guardian or if the
3 resident is a minor, his parent shall have the opportunity to
4 file a request for a hearing with the Department within 10 days
5 following receipt of the written notice of the involuntary
6 transfer or discharge by the facility.

7 Section 3-411. The Department of Public Health, when the
8 basis for involuntary transfer or discharge is other than
9 action by the Department of Healthcare and Family Services with
10 respect to the Title XIX Medicaid recipient, shall hold a
11 hearing at the resident's facility not later than 10 days after
12 a hearing request is filed, and render a decision within 14
13 days after the filing of the hearing request.

14 Section 3-412. The hearing before the Department provided
15 under Section 3-411 shall be conducted as prescribed under
16 Section 3-703. In determining whether a transfer or discharge
17 is authorized, the burden of proof in this hearing rests on the
18 person requesting the transfer or discharge.

19 Section 3-413. If the Department determines that a transfer
20 or discharge is authorized under Section 3-401, the resident
21 shall not be required to leave the facility before the 34th day
22 following receipt of the notice required under Section 3-402,
23 or the 10th day following receipt of the Department's decision,
24 whichever is later, unless a condition which would have allowed
25 transfer or discharge in less than 21 days as described under
26 paragraphs (a) and (b) of Section 3-402 develops in the
27 interim.

28 Section 3-414. The Department of Healthcare and Family
29 Services shall continue Title XIX Medicaid funding during the
30 appeal, transfer, or discharge period for those residents who
31 are Title XIX recipients affected by Section 3-401.

1 Section 3-415. The Department may transfer or discharge any
2 resident from any facility required to be licensed under this
3 Act when any of the following conditions exist:

4 (a) Such facility is operating without a license;

5 (b) The Department has suspended, revoked or refused to
6 renew the license of the facility as provided under Section
7 3-119;

8 (c) The facility has requested the aid of the Department in
9 the transfer or discharge of the resident and the Department
10 finds that the resident consents to transfer or discharge;

11 (d) The facility is closing or intends to close and
12 adequate arrangement for relocation of the resident has not
13 been made at least 30 days prior to closure; or

14 (e) The Department determines that an emergency exists
15 which requires immediate transfer or discharge of the resident.

16 Section 3-416. In deciding to transfer or discharge a
17 resident from a facility under Section 3-415, the Department
18 shall consider the likelihood of serious harm which may result
19 if the resident remains in the facility.

20 Section 3-417. The Department shall offer transfer or
21 discharge and relocation assistance to residents transferred
22 or discharged under Sections 3-401 through 3-415, including
23 information on available alternative placements. Residents
24 shall be involved in planning the transfer or discharge and
25 shall choose among the available alternative placements,
26 except that where an emergency makes prior resident involvement
27 impossible the Department may make a temporary placement until
28 a final placement can be arranged. Residents may choose their
29 final alternative placement and shall be given assistance in
30 transferring to such place. No resident may be forced to remain
31 in a temporary or permanent placement. Where the Department
32 makes or participates in making the relocation decision,
33 consideration shall be given to proximity to the resident's
34 relatives and friends. The resident shall be allowed 3 visits

1 to potential alternative placements prior to removal, except
2 where medically contraindicated or where the need for immediate
3 transfer or discharge requires reduction in the number of
4 visits.

5 Section 3-418. The Department shall prepare resident
6 transfer or discharge plans to assure safe and orderly removals
7 and protect residents' health, safety, welfare and rights. In
8 nonemergencies, and where possible in emergencies, the
9 Department shall design and implement such plans in advance of
10 transfer or discharge.

11 Section 3-419. The Department may place relocation teams in
12 any facility from which residents are being discharged or
13 transferred for any reason, for the purpose of implementing
14 transfer or discharge plans.

15 Section 3-420. In any transfer or discharge conducted under
16 Sections 3-415 through 3-418 the Department shall:

17 (a) Provide written notice to the facility prior to the
18 transfer or discharge. The notice shall state the basis for the
19 order of transfer or discharge and shall inform the facility of
20 its right to an informal conference prior to transfer or
21 discharge under this Section, and its right to a subsequent
22 hearing under Section 3-422. If a facility desires to contest a
23 nonemergency transfer or discharge, prior to transfer or
24 discharge it shall, within 4 working days after receipt of the
25 notice, send a written request for an informal conference to
26 the Department. The Department shall, within 4 working days
27 from the receipt of the request, hold an informal conference in
28 the county in which the facility is located. Following this
29 conference, the Department may affirm, modify or overrule its
30 previous decision. Except in an emergency, transfer or
31 discharge may not begin until the period for requesting a
32 conference has passed or, if a conference is requested, until
33 after a conference has been held; and

1 (b) Provide written notice to any resident to be removed,
2 to the resident's representative, if any, and to a member of
3 the resident's family, where practicable, prior to the removal.
4 The notice shall state the reason for which transfer or
5 discharge is ordered and shall inform the resident of the
6 resident's right to challenge the transfer or discharge under
7 Section 3-422. The Department shall hold an informal conference
8 with the resident or the resident's representative prior to
9 transfer or discharge at which the resident or the
10 representative may present any objections to the proposed
11 transfer or discharge plan or alternative placement.

12 Section 3-421. In any transfer or discharge conducted under
13 subsection (e) of Section 3-415, the Department shall notify
14 the facility and any resident to be removed that an emergency
15 has been found to exist and removal has been ordered, and shall
16 involve the residents in removal planning if possible.
17 Following emergency removal, the Department shall provide
18 written notice to the facility, to the resident, to the
19 resident's representative, if any, and to a member of the
20 resident's family, where practicable, of the basis for the
21 finding that an emergency existed and of the right to challenge
22 removal under Section 3-422.

23 Section 3-422. Within 10 days following transfer or
24 discharge, the facility or any resident transferred or
25 discharged may send a written request to the Department for a
26 hearing under Section 3-703 to challenge the transfer or
27 discharge. The Department shall hold the hearing within 30 days
28 of receipt of the request. The hearing shall be held at the
29 facility from which the resident is being transferred or
30 discharged, unless the resident or resident's representative,
31 requests an alternative hearing site. If the facility prevails,
32 it may file a claim against the State under the Court of Claims
33 Act for payments lost less expenses saved as a result of the
34 transfer or discharge. No resident transferred or discharged

1 may be held liable for the charge for care which would have
2 been made had the resident remained in the facility. If a
3 resident prevails, the resident may file a claim against the
4 State under the Court of Claims Act for any excess expenses
5 directly caused by the order to transfer or discharge. The
6 Department shall assist the resident in returning to the
7 facility if assistance is requested.

8 Section 3-423. Any owner of a facility licensed under this
9 Act shall give 90 days notice prior to voluntarily closing a
10 facility or closing any part of a facility, or prior to closing
11 any part of a facility if closing such part will require the
12 transfer or discharge of more than 10% of the residents. Such
13 notice shall be given to the Department, to any resident who
14 must be transferred or discharged, to the resident's
15 representative, and to a member of the resident's family, where
16 practicable. Notice shall state the proposed date of closing
17 and the reason for closing. The facility shall offer to assist
18 the resident in securing an alternative placement and shall
19 advise the resident on available alternatives. Where the
20 resident is unable to choose an alternate placement and is not
21 under guardianship, the Department shall be notified of the
22 need for relocation assistance. The facility shall comply with
23 all applicable laws and regulations until the date of closing,
24 including those related to transfer or discharge of residents.
25 The Department may place a relocation team in the facility as
26 provided under Section 3-419.

27 PART 5. MONITORS AND RECEIVERSHIP

28 Section 3-501. The Department may place an employee or
29 agent to serve as a monitor in a facility or may petition the
30 circuit court for appointment of a receiver for a facility, or
31 both, when any of the following conditions exist:

- 32 (a) The facility is operating without a license;
- 33 (b) The Department has suspended, revoked or refused to

1 renew the existing license of the facility;

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

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

11 (e) The Department is notified that the facility is
12 terminated or will not be renewed for participation in the
13 federal reimbursement program under either Title XVIII or Title
14 XIX of the Social Security Act. As used in subsection (d) and
15 Section 3-503, "emergency" means a threat to the health, safety
16 or welfare of a resident that the facility is unwilling or
17 unable to correct.

18 Section 3-502. In any situation described in Section 3-501,
19 the Department may place a qualified person to act as monitor
20 in the facility. The monitor shall observe operation of the
21 facility, assist the facility by advising it on how to comply
22 with the State regulations, and shall report periodically to
23 the Department on the operation of the facility.

24 Section 3-503. Where a resident, a resident's
25 representative or a resident's next of kin believes that an
26 emergency exists each of them, collectively or separately, may
27 file a verified petition to the circuit court for the county in
28 which the facility is located for an order placing the facility
29 under the control of a receiver.

30 Section 3-504. The court shall hold a hearing within 5 days
31 of the filing of the petition. The petition and notice of the
32 hearing shall be served on the owner, administrator or
33 designated agent of the facility as provided under the Civil

1 Practice Law, or the petition and notice of hearing shall be
2 posted in a conspicuous place in the facility not later than 3
3 days before the time specified for the hearing, unless a
4 different period is fixed by order of the court. The court
5 shall appoint a receiver for a limited time period, not to
6 exceed 180 days, if it finds that:

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

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

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

14 (d) An emergency exists, whether or not the Department has
15 initiated revocation or nonrenewal procedures, if because of
16 the unwillingness or inability of the licensee to remedy the
17 emergency the appointment of a receiver is necessary.

18 Section 3-505. If a petition filed under Section 3-503
19 alleges that the conditions set out in subsection 3-504 (d)
20 exist within a facility, the court may set the matter for
21 hearing at the earliest possible time. The petitioner shall
22 notify the licensee, administrator of the facility, or
23 registered agent of the licensee prior to the hearing. Any form
24 of written notice may be used. A receivership shall not be
25 established ex parte unless the court determines that the
26 conditions set out in subsection 3-504(d) exist in a facility;
27 that the licensee cannot be found; and that the petitioner has
28 exhausted all reasonable means of locating and notifying the
29 licensee, administrator or registered agent.

30 Section 3-506. The court may appoint any qualified person
31 as a receiver, except it shall not appoint any owner or
32 affiliate of the facility which is in receivership as its
33 receiver. The Department shall maintain a list of such persons
34 to operate facilities which the court may consider. The court

1 shall give preference to licensed nursing home administrators
2 in appointing a receiver.

3 Section 3-507. The receiver shall make provisions for the
4 continued health, safety and welfare of all residents of the
5 facility.

6 Section 3-508. A receiver appointed under this Act:

7 (a) Shall exercise those powers and shall perform those
8 duties set out by the court.

9 (b) Shall operate the facility in such a manner as to
10 assure safety and adequate health care for the residents.

11 (c) Shall have the same rights to possession of the
12 building in which the facility is located and of all goods and
13 fixtures in the building at the time the petition for
14 receivership is filed as the owner would have had if the
15 receiver had not been appointed, and of all assets of the
16 facility. The receiver shall take such action as is reasonably
17 necessary to protect or conserve the assets or property of
18 which the receiver takes possession, or the proceeds from any
19 transfer thereof, and may use them only in the performance of
20 the powers and duties set forth in this Section and by order of
21 the court.

22 (d) May use the building, fixtures, furnishings and any
23 accompanying consumable goods in the provision of care and
24 services to residents and to any other persons receiving
25 services from the facility at the time the petition for
26 receivership was filed. The receiver shall collect payments for
27 all goods and services provided to residents or others during
28 the period of the receivership at the same rate of payment
29 charged by the owners at the time the petition for receivership
30 was filed.

31 (e) May correct or eliminate any deficiency in the
32 structure or furnishings of the facility which endangers the
33 safety or health of residents while they remain in the
34 facility, provided the total cost of correction does not exceed

1 \$3,000. The court may order expenditures for this purpose in
2 excess of \$3,000 on application from the receiver after notice
3 to the owner and hearing.

4 (f) May let contracts and hire agents and employees to
5 carry out the powers and duties of the receiver under this
6 Section.

7 (g) Except as specified in Section 3-510, shall honor all
8 leases, mortgages and secured transactions governing the
9 building in which the facility is located and all goods and
10 fixtures in the building of which the receiver has taken
11 possession, but only to the extent of payments which, in the
12 case of a rental agreement, are for the use of the property
13 during the period of the receivership, or which, in the case of
14 a purchase agreement, come due during the period of the
15 receivership.

16 (h) Shall have full power to direct and manage and to
17 discharge employees of the facility, subject to any contract
18 rights they may have. The receiver shall pay employees at the
19 same rate of compensation, including benefits, that the
20 employees would have received from the owner. Receivership does
21 not relieve the owner of any obligation to employees not
22 carried out by the receiver.

23 (i) Shall, if any resident is transferred or discharged,
24 follow the procedures set forth in Part 4 of this Article.

25 (j) Shall be entitled to and shall take possession of all
26 property or assets of residents which are in the possession of
27 a facility or its owner. The receiver shall preserve all
28 property, assets and records of residents of which the receiver
29 takes possession and shall provide for the prompt transfer of
30 the property, assets and records to the new placement of any
31 transferred resident.

32 (k) Shall report to the court on any actions he has taken
33 to bring the facility into compliance with this Act or with
34 Title XVIII or XIX of the Social Security Act that he believes
35 should be continued when the receivership is terminated in
36 order to protect the health, safety or welfare of the

1 residents.

2 Section 3-509.

3 (a) A person who is served with notice of an order of the
4 court appointing a receiver and of the receiver's name and
5 address shall be liable to pay the receiver for any goods or
6 services provided by the receiver after the date of the order
7 if the person would have been liable for the goods or services
8 as supplied by the owner. The receiver shall give a receipt for
9 each payment and shall keep a copy of each receipt on file. The
10 receiver shall deposit amounts received in a separate account
11 and shall use this account for all disbursements.

12 (b) The receiver may bring an action to enforce the
13 liability created by subsection (a) of this Section.

14 (c) A payment to the receiver of any sum owing to the
15 facility or its owner shall discharge any obligation to the
16 facility to the extent of the payment.

17 Section 3-510.

18 (a) A receiver may petition the court that he not be
19 required to honor any lease, mortgage, secured transaction or
20 other wholly or partially executory contract entered into by
21 the owner of the facility if the rent, price or rate of
22 interest required to be paid under the agreement was
23 substantially in excess of a reasonable rent, price or rate of
24 interest at the time the contract was entered into, or if any
25 material provision of the agreement was unreasonable.

26 (b) If the receiver is in possession of real estate or
27 goods subject to a lease, mortgage or security interest which
28 the receiver has obtained a court order to avoid under
29 subsection (a) of this Section, and if the real estate or goods
30 are necessary for the continued operation of the facility under
31 this Section, the receiver may apply to the court to set a
32 reasonable rental, price or rate of interest to be paid by the
33 receiver during the duration of the receivership. The court
34 shall hold a hearing on the application within 15 days. The

1 receiver shall send notice of the application to any known
2 persons who own the property involved at least 10 days prior to
3 the hearing. Payment by the receiver of the amount determined
4 by the court to be reasonable is a defense to any action
5 against the receiver for payment or for possession of the goods
6 or real estate subject to the lease, security interest or
7 mortgage involved by any person who received such notice, but
8 the payment does not relieve the owner of the facility of any
9 liability for the difference between the amount paid by the
10 receiver and the amount due under the original lease, security
11 interest or mortgage involved.

12 Section 3-511. If funds collected under Sections 3-508 and
13 3-509 are insufficient to meet the expenses of performing the
14 powers and duties conferred on the receiver, or if there are
15 insufficient funds on hand to meet those expenses, the
16 Department may reimburse the receiver for those expenses from
17 funds appropriated for its ordinary and contingent expenses by
18 the General Assembly after funds contained in the Long Term
19 Care Monitor/Receiver Fund have been exhausted.

20 Section 3-512. The court shall set the compensation of the
21 receiver, which will be considered a necessary expense of a
22 receivership under Section 3-516.

23 Section 3-513.

24 (a) In any action or special proceeding brought against a
25 receiver in the receiver's official capacity for acts committed
26 while carrying out powers and duties under this Article, the
27 receiver shall be considered a public employee under the Local
28 Governmental and Governmental Employees Tort Immunity Act, as
29 now or hereafter amended.

30 (b) A receiver may be held liable in a personal capacity
31 only for the receiver's own gross negligence, intentional acts
32 or breach of fiduciary duty.

33 (c) The court may require a receiver to post a bond.

1 Section 3-514. Other provisions of this Act
2 notwithstanding, the Department may issue a license to a
3 facility placed in receivership. The duration of a license
4 issued under this Section is limited to the duration of the
5 receivership.

6 Section 3-515. The court may terminate a receivership:

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

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

15 (c) If all of the residents in the facility have been
16 transferred or discharged. Before terminating a receivership,
17 the court may order the Department to require any licensee to
18 comply with the recommendations of the receiver made under
19 subsection (k) of Section 3-508. A licensee may petition the
20 court to be relieved of this requirement.

21 Section 3-516.

22 (a) Within 30 days after termination, the receiver shall
23 give the court a complete accounting of all property of which
24 the receiver has taken possession, of all funds collected, and
25 of the expenses of the receivership.

26 (b) If the operating funds collected by the receiver under
27 Sections 3-508 and 3-509 exceed the reasonable expenses of the
28 receivership, the court shall order payment of the surplus to
29 the owner, after reimbursement of funds drawn from the
30 contingency fund under Section 3-511. If the operating funds
31 are insufficient to cover the reasonable expenses of the
32 receivership, the owner shall be liable for the deficiency.
33 Payment recovered from the owner shall be used to reimburse the

1 contingency fund for amounts drawn by the receiver under
2 Section 3-511.

3 (c) The Department shall have a lien for any payment made
4 under Section 3-511 upon any beneficial interest, direct or
5 indirect, of any owner in the following property:

6 (1) The building in which the facility is located;

7 (2) Any fixtures, equipment or goods used in the
8 operation of the facility;

9 (3) The land on which the facility is located; or

10 (4) The proceeds from any conveyance of property
11 described in subparagraphs (1), (2) or (3) above, made by
12 the owner within one year prior to the filing of the
13 petition for receivership.

14 (d) The lien provided by this Section is prior to any lien
15 or other interest which originates subsequent to the filing of
16 a petition for receivership under this Article, except for a
17 construction or mechanic's lien arising out of work performed
18 with the express consent of the receiver.

19 (e) The receiver shall, within 60 days after termination of
20 the receivership, file a notice of any lien created under this
21 Section. If the lien is on real property, the notice shall be
22 filed with the recorder. If the lien is on personal property,
23 the lien shall be filed with the Secretary of State. The notice
24 shall specify the name of the person against whom the lien is
25 claimed, the name of the receiver, the dates of the petition
26 for receivership and the termination of receivership, a
27 description of the property involved and the amount claimed. No
28 lien shall exist under this Article against any person, on any
29 property, or for any amount not specified in the notice filed
30 under this subsection (e).

31 Section 3-517. Nothing in this Act shall be deemed to
32 relieve any owner, administrator or employee of a facility
33 placed in receivership of any civil or criminal liability
34 incurred, or any duty imposed by law, by reason of acts or
35 omissions of the owner, administrator, or employee prior to the

1 appointment of a receiver; nor shall anything contained in this
2 Act be construed to suspend during the receivership any
3 obligation of the owner, administrator, or employee for payment
4 of taxes or other operating and maintenance expenses of the
5 facility nor of the owner, administrator, employee or any other
6 person for the payment of mortgages or liens. The owner shall
7 retain the right to sell or mortgage any facility under
8 receivership, subject to approval of the court which ordered
9 the receivership

10 PART 6. DUTIES

11 Section 3-601. The owner and licensee are liable to a
12 resident for any intentional or negligent act or omission of
13 their agents or employees which injures the resident.

14 Section 3-602. The licensee shall pay the actual damages
15 and costs and attorney's fees to a facility resident whose
16 rights, as specified in Part 1 of Article II of this Act, are
17 violated.

18 Section 3-603. A resident may maintain an action under this
19 Act for any other type of relief, including injunctive and
20 declaratory relief, permitted by law.

21 Section 3-604. Any damages recoverable under Sections
22 3-601 through 3-607, including minimum damages as provided by
23 these Sections, may be recovered in any action which a court
24 may authorize to be brought as a class action pursuant to the
25 Civil Practice Law. The remedies provided in Sections 3-601
26 through 3-607, are in addition to and cumulative with any other
27 legal remedies available to a resident. Exhaustion of any
28 available administrative remedies shall not be required prior
29 to commencement of suit hereunder.

30 Section 3-605. The amount of damages recovered by a

1 resident in an action brought under Sections 3-601 through
2 3-607 shall be exempt for purposes of determining initial or
3 continuing eligibility for medical assistance under the
4 Illinois Public Aid Code, as now or hereafter amended, and
5 shall neither be taken into consideration nor required to be
6 applied toward the payment or partial payment of the cost of
7 medical care or services available under the Illinois Public
8 Aid Code.

9 Section 3-606. Any waiver by a resident or his legal
10 representative of the right to commence an action under
11 Sections 3-601 through 3-607, whether oral or in writing, shall
12 be null and void, and without legal force or effect.

13 Section 3-607. Any party to an action brought under
14 Sections 3-601 through 3-607 shall be entitled to a trial by
15 jury and any waiver of the right to a trial by a jury, whether
16 oral or in writing, prior to the commencement of an action,
17 shall be null and void, and without legal force or effect.

18 Section 3-608. A licensee or its agents or employees shall
19 not transfer, discharge, evict, harass, dismiss, or retaliate
20 against a resident, a resident's representative, or an employee
21 or agent who makes a report under Section 2-107, brings or
22 testifies in an action under Sections 3-601 through 3-607, or
23 files a complaint under Section 3-702, because of the report,
24 testimony, or complaint.

25 Section 3-609. Any person, institution or agency, under
26 this Act, participating in good faith in the making of a
27 report, or in the investigation of such a report shall not be
28 deemed to have violated any privileged communication and shall
29 have immunity from any liability, civil, criminal or any other
30 proceedings, civil or criminal as a consequence of making such
31 report. The good faith of any persons required to report, or
32 permitted to report, cases of suspected resident abuse or

1 neglect under this Act, shall be presumed.

2 Section 3-610. Duty to report violations.

3 (a) A facility employee or agent who becomes aware of abuse
4 or neglect of a resident prohibited by Section 2-107 shall
5 immediately report the matter to the Department and to the
6 facility administrator. A facility administrator who becomes
7 aware of abuse or neglect of a resident prohibited by Section
8 2-107 shall immediately report the matter by telephone and in
9 writing to the resident's representative, and to the
10 Department. Any person may report a violation of Section 2-107
11 to the Department.

12 (b) A facility employee or agent who becomes aware of
13 another facility employee or agent's theft or misappropriation
14 of a resident's property must immediately report the matter to
15 the facility administrator. A facility administrator who
16 becomes aware of a facility employee or agent's theft or
17 misappropriation of a resident's property must immediately
18 report the matter by telephone and in writing to the resident's
19 representative, to the Department, and to the local law
20 enforcement agency. Neither a licensee nor its employees or
21 agents may dismiss or otherwise retaliate against a facility
22 employee or agent who reports the theft or misappropriation of
23 a resident's property under this subsection.

24 Section 3-611. Employee as perpetrator of abuse. When an
25 investigation of a report of suspected abuse of a recipient
26 indicates, based upon credible evidence, that an employee of a
27 long term care facility is the perpetrator of the abuse, that
28 employee shall immediately be barred from any further contact
29 with residents of the facility, pending the outcome of any
30 further investigation, prosecution or disciplinary action
31 against the employee.

32 Section 3-612. Resident as perpetrator of abuse. When an
33 investigation of a report of suspected abuse of a resident

1 indicates, based upon credible evidence, that another resident
2 of the long term care facility is the perpetrator of the abuse,
3 that resident's condition shall be immediately evaluated to
4 determine the most suitable therapy and placement for the
5 resident, considering the safety of that resident as well as
6 the safety of other residents and employees of the facility.

7 PART 7. COMPLAINT, HEARING AND APPEAL

8 Section 3-701. The operation or maintenance of a facility
9 in violation of this Act, or of the rules and regulations
10 promulgated by the Department, is declared a public nuisance
11 inimical to the public welfare. The Director in the name of the
12 people of the State, through the Attorney General, or the
13 State's Attorney of the county in which the facility is
14 located, or in respect to any city, village or incorporated
15 town which provides for the licensing and regulation of any or
16 all such facilities, the Director or the mayor or president of
17 the Board of Trustees, as the case may require, of the city,
18 village or incorporated town, in the name of the people of the
19 State, through the Attorney General or State's attorney of the
20 county in which the facility is located, may, in addition to
21 other remedies herein provided, bring action for an injunction
22 to restrain such violation or to enjoin the future operation or
23 maintenance of any such facility.

24 Section 3-702.

25 (a) A person who believes that this Act or a rule
26 promulgated under this Act may have been violated may request
27 an investigation. The request may be submitted to the
28 Department in writing, by telephone, or by personal visit. An
29 oral complaint shall be reduced to writing by the Department.
30 The Department shall request information identifying the
31 complainant, including the name, address and telephone number,
32 to help enable appropriate follow up. The Department shall act
33 on such complaints via on site visits or other methods deemed

1 appropriate to handle the complaints with or without such
2 identifying information, as otherwise provided under this
3 Section. The complainant shall be informed that compliance with
4 such request is not required to satisfy the procedures for
5 filing a complaint under this Act.

6 (b) The substance of the complaint shall be provided in
7 writing to the licensee, owner or administrator no earlier than
8 at the commencement of an on site inspection of the facility
9 which takes place pursuant to the complaint.

10 (c) The Department shall not disclose the name of the
11 complainant unless the complainant consents in writing to the
12 disclosure or the investigation results in a judicial
13 proceeding, or unless disclosure is essential to the
14 investigation. The complainant shall be given the opportunity
15 to withdraw the complaint before disclosure. Upon the request
16 of the complainant, the Department may permit the complainant
17 or a representative of the complainant to accompany the person
18 making the on site inspection of the facility.

19 (d) Upon receipt of a complaint, the Department shall
20 determine whether this Act or a rule promulgated under this Act
21 has been or is being violated. The Department shall investigate
22 all complaints alleging abuse or neglect within 7 days after
23 the receipt of the complaint except that complaints of abuse or
24 neglect which indicate that a resident's life or safety is in
25 imminent danger shall be investigated within 24 hours after
26 receipt of the complaint. All other complaints shall be
27 investigated within 30 days after the receipt of the complaint.
28 The Department employees investigating a complaint shall
29 conduct a brief, informal exit conference with the facility to
30 alert its administration of any suspected serious deficiency
31 that poses a direct threat to the health, safety or welfare of
32 a resident to enable an immediate correction for the
33 alleviation or elimination of such threat. Such information and
34 findings discussed in the brief exit conference shall become a
35 part of the investigating record but shall not in any way
36 constitute an official or final notice of violation as provided

1 under Section 3-301. All complaints shall be classified as "an
2 invalid report", "a valid report", or "an undetermined report".
3 For any complaint classified as "a valid report", the
4 Department must determine within 30 working days if any rule or
5 provision of this Act has been or is being violated.

6 (d-1) The Department shall, whenever possible, combine an
7 on site investigation of a complaint in a facility with other
8 inspections in order to avoid duplication of inspections.

9 (e) In all cases, the Department shall inform the
10 complainant of its findings within 10 days of its determination
11 unless otherwise indicated by the complainant, and the
12 complainant may direct the Department to send a copy of such
13 findings to another person. The Department's findings may
14 include comments or documentation provided by either the
15 complainant or the licensee pertaining to the complaint. The
16 Department shall also notify the facility of such findings
17 within 10 days of the determination, but the name of the
18 complainant or residents shall not be disclosed in this notice
19 to the facility. The notice of such findings shall include a
20 copy of the written determination; the correction order, if
21 any; the warning notice, if any; the inspection report; or the
22 State licensure form on which the violation is listed.

23 (f) A written determination, correction order, or warning
24 notice concerning a complaint, together with the facility's
25 response, shall be available for public inspection, but the
26 name of the complainant or resident shall not be disclosed
27 without his consent.

28 (g) A complainant who is dissatisfied with the
29 determination or investigation by the Department may request a
30 hearing under Section 3-703. The facility shall be given notice
31 of any such hearing and may participate in the hearing as a
32 party. If a facility requests a hearing under Section 3-703
33 which concerns a matter covered by a complaint, the complainant
34 shall be given notice and may participate in the hearing as a
35 party. A request for a hearing by either a complainant or a
36 facility shall be submitted in writing to the Department within

1 30 days after the mailing of the Department's findings as
2 described in subsection (e) of this Section. Upon receipt of
3 the request the Department shall conduct a hearing as provided
4 under Section 3-703.

5 (h) Any person who knowingly transmits a false report to
6 the Department commits the offense of disorderly conduct under
7 subsection (a) (8) of Section 26-1 of the Criminal Code of 1961.

8 Section 3-703. Any person requesting a hearing pursuant to
9 Sections 2-110, 3-115, 3-118, 3-119, 3-301, 3-303, 3-309,
10 3-410, 3-422 or 3-702 to contest a decision rendered in a
11 particular case may have such decision reviewed in accordance
12 with Sections 3-703 through 3-712.

13 Section 3-704. A request for a hearing by aggrieved persons
14 shall be taken to the Department as follows:

15 (a) Upon the receipt of a request in writing for a hearing,
16 the Director or a person designated in writing by the Director
17 to act as a hearing officer shall conduct a hearing to review
18 the decision.

19 (b) Before the hearing is held notice of the hearing shall
20 be sent by the Department to the person making the request for
21 the hearing and to the person making the decision which is
22 being reviewed. In the notice the Department shall specify the
23 date, time and place of the hearing which shall be held not
24 less than 10 days after the notice is mailed or delivered. The
25 notice shall designate the decision being reviewed. The notice
26 may be served by delivering it personally to the parties or
27 their representatives or by mailing it by certified mail to the
28 parties' addresses.

29 (c) The Department shall commence the hearing within 30
30 days of the receipt of request for hearing. The hearing shall
31 proceed as expeditiously as practicable, but in all cases shall
32 conclude within 90 days of commencement.

33 Section 3-705. The Director or hearing officer may compel

1 by subpoena or subpoena duces tecum the attendance and
2 testimony of witnesses and the production of books and papers,
3 and administer oaths to witnesses.

4 Section 3-706. The Director or hearing officer shall permit
5 any party to appear in person and to be represented by counsel
6 at the hearing, at which time the applicant or licensee shall
7 be afforded an opportunity to present all relevant matter in
8 support of his position. In the event of the inability of any
9 party or the Department to procure the attendance of witnesses
10 to give testimony or produce books and papers, any party or the
11 Department may take the deposition of witnesses in accordance
12 with the provisions of the laws of this State. All testimony
13 taken at a hearing shall be reduced to writing, and all such
14 testimony and other evidence introduced at the hearing shall be
15 a part of the record of the hearing.

16 Section 3-707. The Director or hearing officer shall make
17 findings of fact in such hearing, and the Director shall render
18 his decision within 30 days after the termination of the
19 hearing, unless additional time not to exceed 90 days is
20 required by him for a proper disposition of the matter. When
21 the hearing has been conducted by a hearing officer, the
22 Director shall review the record and findings of fact before
23 rendering a decision. All decisions rendered by the Director
24 shall be binding upon and complied with by the Department, the
25 facility or the persons involved in the hearing, as appropriate
26 to each case.

27 Section 3-708. The Director or hearing officer shall not be
28 bound by common law or statutory rules of evidence, or by
29 technical or formal rules of procedure, but shall conduct
30 hearings in the manner best calculated to result in substantial
31 justice.

32 Section 3-709. All subpoenas issued by the Director or

1 hearing officer may be served as provided for in civil actions.
2 The fees of witnesses for attendance and travel shall be the
3 same as the fees for witnesses before the circuit court and
4 shall be paid by the party to such proceeding at whose request
5 the subpoena is issued. If such subpoena is issued at the
6 request of the Department or by a person proceeding in forma
7 pauperis the witness fee shall be paid by the Department as an
8 administrative expense.

9 Section 3-710. In cases of refusal of a witness to attend
10 or testify or to produce books or papers, concerning any matter
11 upon which he might be lawfully examined, the circuit court of
12 the county wherein the hearing is held, upon application of any
13 party to the proceeding, may compel obedience by a proceeding
14 for contempt as in cases of a like refusal to obey a similar
15 order of the court.

16 Section 3-711. The Department, at its expense, shall
17 provide a stenographer to take the testimony, or otherwise
18 record the testimony, and preserve a record of all proceedings
19 under this Section. The notice of hearing, the complaint and
20 all other documents in the nature of pleadings and written
21 motions filed in the proceedings, the transcript of testimony,
22 and the findings and decision shall be the record of the
23 proceedings. The Department shall furnish a transcript of such
24 record to any person interested in such hearing upon payment
25 therefor of 70 cents per page for each original transcript and
26 25 cents per page for each certified copy thereof. However, the
27 charge for any part of such transcript ordered and paid for
28 previous to the writing of the original record shall be 25
29 cents per page.

30 Section 3-712. The Department shall not be required to
31 certify any record or file any answer or otherwise appear in
32 any proceeding for judicial review under Section 3-713 of this
33 Act unless the party filing the complaint deposits with the

1 clerk of the court the sum of 95 cents per page, representing
2 the costs of such certification. Failure on the part of the
3 plaintiff to make such deposit shall be grounds for dismissal
4 of the action; provided, however, that persons proceeding in
5 forma pauperis with the approval of the circuit court shall not
6 be required to pay these fees.

7 Section 3-713.

8 (a) Final administrative decisions after hearing shall be
9 subject to judicial review exclusively as provided in the
10 Administrative Review Law, as now or hereafter amended, except
11 that any petition for judicial review of Department action
12 under this Act shall be filed within 15 days after receipt of
13 notice of the final agency determination. The term
14 "administrative decision" has the meaning ascribed to it in
15 Section 3-101 of the Code of Civil Procedure.

16 (b) The court may stay enforcement of the Department's
17 final decision or toll the continuing accrual of a penalty
18 under Section 3-305 if a showing is made that there is a
19 substantial probability that the party seeking review will
20 prevail on the merits and will suffer irreparable harm if a
21 stay is not granted, and that the facility will meet the
22 requirements of this Act and the rules promulgated under this
23 Act during such stay. Where a stay is granted the court may
24 impose such conditions on the granting of the stay as may be
25 necessary to safeguard the lives, health, rights, safety and
26 welfare of residents, and to assure compliance by the facility
27 with the requirements of this Act, including an order for
28 transfer or discharge of residents under Sections 3-401 through
29 3-423 or for appointment of a receiver under Sections 3-501
30 through 3-517.

31 (c) Actions brought under this Act shall be set for trial
32 at the earliest possible date and shall take precedence on the
33 court calendar over all other cases except matters to which
34 equal or superior precedence is specifically granted by law.

1 Section 3-714. The remedies provided by this Act are
2 cumulative and shall not be construed as restricting any party
3 from seeking any remedy, provisional or otherwise, provided by
4 law for the benefit of the party, from obtaining additional
5 relief based upon the same facts.

6 PART 8. MISCELLANEOUS PROVISIONS

7 Section 3-801. The Department shall have the power to adopt
8 rules and regulations to carry out the purpose of this Act.

9 Section 3-801.1. Notwithstanding the other provisions of
10 this Act to the contrary, the agency designated by the Governor
11 under Section 1 of "An Act in relation to the protection and
12 advocacy of the rights of persons with developmental
13 disabilities, and amending Acts therein named", enacted by the
14 84th General Assembly, shall have access to the records of a
15 person with developmental disabilities who resides in a
16 facility, subject to the limitations of this Act. The agency
17 shall also have access for the purpose of inspection and
18 copying, to the records of a person with developmental
19 disabilities who resides in any such facility if (1) a
20 complaint is received by such agency from or on behalf of the
21 person with a developmental disability, and (2) such person
22 does not have a guardian or the State or the designee of the
23 State is the guardian of such person. The designated agency
24 shall provide written notice to the person with developmental
25 disabilities and the State guardian of the nature of the
26 complaint based upon which the designated agency has gained
27 access to the records. No record or the contents of any record
28 shall be redisclosed by the designated agency unless the person
29 with developmental disabilities and the State guardian are
30 provided 7 days advance written notice, except in emergency
31 situations, of the designated agency's intent to redisclose
32 such record, during which time the person with developmental
33 disabilities or the State guardian may seek to judicially

1 enjoin the designated agency's redisclosure of such record on
2 the grounds that such redisclosure is contrary to the interests
3 of the person with developmental disabilities. If a person with
4 developmental disabilities resides in such a facility and has a
5 guardian other than the State or the designee of the State, the
6 facility director shall disclose the guardian's name, address,
7 and telephone number to the designated agency at the agency's
8 request.

9 Upon request, the designated agency shall be entitled to
10 inspect and copy any records or other materials which may
11 further the agency's investigation of problems affecting
12 numbers of persons with developmental disabilities. When
13 required by law any personally identifiable information of
14 persons with a developmental disability shall be removed from
15 the records. However, the designated agency may not inspect or
16 copy any records or other materials when the removal of
17 personally identifiable information imposes an unreasonable
18 burden on the facility. For the purposes of this Section,
19 "developmental disability" means a severe, chronic disability
20 of a person which:

21 (A) is attributable to a mental or physical impairment
22 or combination of mental and physical impairments;

23 (B) is manifested before the person attains age 22;

24 (C) is likely to continue indefinitely;

25 (D) results in substantial functional limitations in 3
26 or more of the following areas of major life activity: (i)
27 self care, (ii) receptive and expressive language, (iii)
28 learning, (iv) mobility, (v) self direction, (vi) capacity
29 for independent living, and (vii) economic self
30 sufficiency; and

31 (E) reflects the person's need for combination and
32 sequence of special, interdisciplinary or generic care,
33 treatment or other services which are of lifelong or
34 extended duration and are individually planned and
35 coordinated.

1 Section 3-802. The provisions of the Illinois
2 Administrative Procedure Act are hereby expressly adopted and
3 shall apply to all administrative rules and procedures of the
4 Department under this Act.

5 Section 3-803. Nothing in this Act or the rules and
6 regulations adopted pursuant thereto shall be construed as
7 authorizing the medical supervision, regulation, or control of
8 the remedial care or treatment of residents in any facility
9 conducted for those who rely upon treatment by prayer or
10 spiritual means in accordance with the creed or tenets of any
11 well recognized church or religious denomination.

12 Section 3-804. The Department shall report to the General
13 Assembly by April 1 of each year upon the performance of its
14 inspection, survey and evaluation duties under this Act,
15 including the number and needs of the Department personnel
16 engaged in such activities. The report shall also describe the
17 Department's actions in enforcement of this Act, including the
18 number and needs of personnel so engaged. The report shall also
19 include the number of valid and invalid complaints filed with
20 the Department within the last calendar year.

21 ARTICLE 90. AMENDATORY PROVISIONS

22 Section 90-5. The Illinois Act on the Aging is amended by
23 changing Section 4.04a as follows:

24 (20 ILCS 105/4.04a)

25 Sec. 4.04a. Illinois Long-Term Care Council.

26 (a) Purpose. The purpose of this Section is to ensure that
27 consumers over the age of 60 residing in facilities licensed or
28 regulated under the Nursing Home Care Act, the MR/DD Community
29 Care Act, the Skilled Nursing and Intermediate Care Facilities
30 Code, the Sheltered Care Facilities Code, and the Illinois
31 Veterans' Homes Code receive high quality long-term care

1 through an effective Illinois Long-Term Care Council.

2 (b) Maintenance and operation of the Illinois Long-Term
3 Care Council.

4 (1) The Department shall develop a fair and impartial
5 process for recruiting and receiving nominations for
6 members for the Illinois Long-Term Care Council from the
7 State Long-Term Care Ombudsman, the area agencies on aging,
8 regional ombudsman programs, provider agencies, and other
9 public agencies, using a nomination form provided by the
10 Department.

11 (2) The Department shall appoint members to the
12 Illinois Long-Term Care Council in a timely manner.

13 (3) The Department shall consider and act in good faith
14 regarding the Illinois Long-Term Care Council's annual
15 report and its recommendations.

16 (4) The Director shall appoint to the Illinois
17 Long-Term Care Council at least 18 but not more than 25
18 members.

19 (c) Responsibilities of the State Long-Term Care
20 Ombudsman, area agencies on aging, regional long-term care
21 ombudsman programs, and provider agencies. The State Long-Term
22 Care Ombudsman and each area agency on aging, regional
23 long-term care ombudsman program, and provider agency shall
24 solicit names and recommend members to the Department for
25 appointment to the Illinois Long-Term Care Council.

26 (d) Powers and duties. The Illinois Long-Term Care Council
27 shall do the following:

28 (1) Make recommendations and comment on issues
29 pertaining to long-term care and the State Long-Term Care
30 Ombudsman Program to the Department.

31 (2) Advise the Department on matters pertaining to the
32 quality of life and quality of care in the continuum of
33 long-term care.

34 (3) Evaluate, comment on reports regarding, and make
35 recommendations on, the quality of life and quality of care
36 in long-term care facilities and on the duties and

1 responsibilities of the State Long-Term Care Ombudsman
2 Program.

3 (4) Prepare and circulate an annual report to the
4 Governor, the General Assembly, and other interested
5 parties concerning the duties and accomplishments of the
6 Illinois Long-Term Care Council and all other related
7 matters pertaining to long-term care and the protection of
8 residents' rights.

9 (5) Provide an opportunity for public input at each
10 scheduled meeting.

11 (6) Make recommendations to the Director, upon his or
12 her request, as to individuals who are capable of serving
13 as the State Long-Term Care Ombudsman and who should make
14 appropriate application for that position should it become
15 vacant.

16 (e) Composition and operation. The Illinois Long-Term Care
17 Council shall be composed of at least 18 but not more than 25
18 members concerned about the quality of life in long-term care
19 facilities and protecting the rights of residents, including
20 members from long-term care facilities. The State Long-Term
21 Care Ombudsman shall be a permanent member of the Long-Term
22 Care Council. Members shall be appointed for a 4-year term with
23 initial appointments staggered with 2-year, 3-year, and 4-year
24 terms. A lottery will determine the terms of office for the
25 members of the first term. Members may be reappointed to a term
26 but no member may be reappointed to more than 2 consecutive
27 terms. The Illinois Long-Term Care Council shall meet a minimum
28 of 3 times per calendar year.

29 (f) Member requirements. All members shall be individuals
30 who have demonstrated concern about the quality of life in
31 long-term care facilities. A minimum of 3 members must be
32 current or former residents of long-term care facilities or the
33 family member of a current or former resident of a long-term
34 care facility. A minimum of 2 members shall represent current
35 or former long-term care facility resident councils or family
36 councils. A minimum of 4 members shall be selected from

1 recommendations by organizations whose members consist of
2 long-term care facilities. A representative of long-term care
3 facility employees must also be included as a member. A minimum
4 of 2 members shall be selected from recommendations of
5 membership-based senior advocacy groups or consumer
6 organizations that engage solely in legal representation on
7 behalf of residents and immediate families. There shall be
8 non-voting State agency members on the Long-Term Care Council
9 from the following agencies: (i) the Department of Veterans'
10 Affairs; (ii) the Department of Human Services; (iii) the
11 Department of Public Health; (iv) the Department on Aging; (v)
12 the Department of Healthcare and Family Services ~~Public Aid~~;
13 (vi) the Illinois State Police Medicaid Fraud Control Unit; and
14 (vii) others as appropriate.

15 (Source: P.A. 93-498, eff. 8-11-03; revised 12-15-05.)

16 Section 90-10. The Illinois Health Facilities Planning Act
17 is amended by changing Section 3 as follows:

18 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

19 (Section scheduled to be repealed on July 1, 2006)

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

21 "Health care facilities" means and includes the following
22 facilities and organizations:

23 1. An ambulatory surgical treatment center required to
24 be licensed pursuant to the Ambulatory Surgical Treatment
25 Center Act;

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

28 3. Skilled and intermediate long term care facilities
29 licensed under the Nursing Home Care Act or the MR/DD
30 Community Care Act;

31 ~~3. Skilled and intermediate long term care facilities~~
32 ~~licensed under the Nursing Home Care Act;~~

33 4. Hospitals, nursing homes, ambulatory surgical
34 treatment centers, or kidney disease treatment centers

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

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

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

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

13 No facility licensed under the Supportive Residences
14 Licensing Act or the Assisted Living and Shared Housing Act
15 shall be subject to the provisions of this Act.

16 A facility designated as a supportive living facility that
17 is in good standing with the program established under Section
18 5-5.01a of the Illinois Public Aid Code shall not be subject to
19 the provisions of this Act.

20 This Act does not apply to facilities granted waivers under
21 Section 3-102.2 of the Nursing Home Care Act. However, if a
22 demonstration project under that Act applies for a certificate
23 of need to convert to a nursing facility, it shall meet the
24 licensure and certificate of need requirements in effect as of
25 the date of application.

26 This Act does not apply to a dialysis facility that
27 provides only dialysis training, support, and related services
28 to individuals with end stage renal disease who have elected to
29 receive home dialysis. This Act does not apply to a dialysis
30 unit located in a licensed nursing home that offers or provides
31 dialysis-related services to residents with end stage renal
32 disease who have elected to receive home dialysis within the
33 nursing home. The Board, however, may require these dialysis
34 facilities and licensed nursing homes to report statistical
35 information on a quarterly basis to the Board to be used by the
36 Board to conduct analyses on the need for proposed kidney

1 disease treatment centers.

2 This Act shall not apply to the closure of an entity or a
3 portion of an entity licensed under the Nursing Home Care Act
4 that elects to convert, in whole or in part, to an assisted
5 living or shared housing establishment licensed under the
6 Assisted Living and Shared Housing Act.

7 With the exception of those health care facilities
8 specifically included in this Section, nothing in this Act
9 shall be intended to include facilities operated as a part of
10 the practice of a physician or other licensed health care
11 professional, whether practicing in his individual capacity or
12 within the legal structure of any partnership, medical or
13 professional corporation, or unincorporated medical or
14 professional group. Further, this Act shall not apply to
15 physicians or other licensed health care professional's
16 practices where such practices are carried out in a portion of
17 a health care facility under contract with such health care
18 facility by a physician or by other licensed health care
19 professionals, whether practicing in his individual capacity
20 or within the legal structure of any partnership, medical or
21 professional corporation, or unincorporated medical or
22 professional groups. This Act shall apply to construction or
23 modification and to establishment by such health care facility
24 of such contracted portion which is subject to facility
25 licensing requirements, irrespective of the party responsible
26 for such action or attendant financial obligation.

27 "Person" means any one or more natural persons, legal
28 entities, governmental bodies other than federal, or any
29 combination thereof.

30 "Consumer" means any person other than a person (a) whose
31 major occupation currently involves or whose official capacity
32 within the last 12 months has involved the providing,
33 administering or financing of any type of health care facility,
34 (b) who is engaged in health research or the teaching of
35 health, (c) who has a material financial interest in any
36 activity which involves the providing, administering or

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

4 "State Board" means the Health Facilities Planning Board.

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

20 "Establish" means the construction of a health care
21 facility or the replacement of an existing facility on another
22 site.

23 "Major medical equipment" means medical equipment which is
24 used for the provision of medical and other health services and
25 which costs in excess of the capital expenditure minimum,
26 except that such term does not include medical equipment
27 acquired by or on behalf of a clinical laboratory to provide
28 clinical laboratory services if the clinical laboratory is
29 independent of a physician's office and a hospital and it has
30 been determined under Title XVIII of the Social Security Act to
31 meet the requirements of paragraphs (10) and (11) of Section
32 1861(s) of such Act. In determining whether medical equipment
33 has a value in excess of the capital expenditure minimum, the
34 value of studies, surveys, designs, plans, working drawings,
35 specifications, and other activities essential to the
36 acquisition of such equipment shall be included.

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

9 For the purpose of this paragraph, the cost of any studies,
10 surveys, designs, plans, working drawings, specifications, and
11 other activities essential to the acquisition, improvement,
12 expansion, or replacement of any plant or equipment with
13 respect to which an expenditure is made shall be included in
14 determining if such expenditure exceeds the capital
15 expenditures minimum. Donations of equipment or facilities to a
16 health care facility which if acquired directly by such
17 facility would be subject to review under this Act shall be
18 considered capital expenditures, and a transfer of equipment or
19 facilities for less than fair market value shall be considered
20 a capital expenditure for purposes of this Act if a transfer of
21 the equipment or facilities at fair market value would be
22 subject to review.

23 "Capital expenditure minimum" means \$6,000,000, which
24 shall be annually adjusted to reflect the increase in
25 construction costs due to inflation, for major medical
26 equipment and for all other capital expenditures; provided,
27 however, that when a capital expenditure is for the
28 construction or modification of a health and fitness center,
29 "capital expenditure minimum" means the capital expenditure
30 minimum for all other capital expenditures in effect on March
31 1, 2000, which shall be annually adjusted to reflect the
32 increase in construction costs due to inflation.

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

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

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

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

26 "Areawide health planning organization" or "Comprehensive
27 health planning organization" means the health systems agency
28 designated by the Secretary, Department of Health and Human
29 Services or any successor agency.

30 "Local health planning organization" means those local
31 health planning organizations that are designated as such by
32 the areawide health planning organization of the appropriate
33 area.

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

36 "Licensed health care professional" means a person

1 licensed to practice a health profession under pertinent
2 licensing statutes of the State of Illinois.

3 "Director" means the Director of the Illinois Department of
4 Public Health.

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

6 "Comprehensive health planning" means health planning
7 concerned with the total population and all health and
8 associated problems that affect the well-being of people and
9 that encompasses health services, health manpower, and health
10 facilities; and the coordination among these and with those
11 social, economic, and environmental factors that affect
12 health.

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

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

32 "Change of ownership of a health care facility" means a
33 change in the person who has ownership or control of a health
34 care facility's physical plant and capital assets. A change in
35 ownership is indicated by the following transactions: sale,
36 transfer, acquisition, lease, change of sponsorship, or other

1 means of transferring control.

2 "Related person" means any person that: (i) is at least 50%
3 owned, directly or indirectly, by either the health care
4 facility or a person owning, directly or indirectly, at least
5 50% of the health care facility; or (ii) owns, directly or
6 indirectly, at least 50% of the health care facility.

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

10 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
11 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; 94-342, eff.
12 7-26-05; revised 10-19-05.)

13 Section 90-15. The Illinois Income Tax Act is amended by
14 changing Section 806 as follows:

15 (35 ILCS 5/806)

16 Sec. 806. Exemption from penalty. An individual taxpayer
17 shall not be subject to a penalty for failing to pay estimated
18 tax as required by Section 803 if the taxpayer is 65 years of
19 age or older and is a permanent resident of a nursing home. For
20 purposes of this Section, "nursing home" means a skilled
21 nursing or intermediate long term care facility that is subject
22 to licensure by the Illinois Department of Public Health under
23 the Nursing Home Care Act or the MR/DD Community Care Act.

24 (Source: P.A. 90-491, eff. 1-1-98.)

25 Section 90-20. The Nursing Home Care Act is amended by
26 changing Sections 1-113, 3-202.5, and 3-206 as follows:

27 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

28 Sec. 1-113. "Facility" or "long-term care facility" means a
29 private home, institution, building, residence, or any other
30 place, whether operated for profit or not, or a county home for
31 the infirm and chronically ill operated pursuant to Division
32 5-21 or 5-22 of the Counties Code, or any similar institution

1 operated by a political subdivision of the State of Illinois,
2 which provides, through its ownership or management, personal
3 care, sheltered care or nursing for 3 or more persons, not
4 related to the applicant or owner by blood or marriage. It
5 includes skilled nursing facilities as that term is ~~and~~
6 ~~intermediate care facilities as those terms are~~ defined in
7 Title XVIII and Title XIX of the Federal Social Security Act.
8 It also includes homes, institutions, or other places operated
9 by or under the authority of the Illinois Department of
10 Veterans' Affairs.

11 "Facility" does not include the following:

12 (1) A home, institution, or other place operated by the
13 federal government or agency thereof, or by the State of
14 Illinois, other than homes, institutions, or other places
15 operated by or under the authority of the Illinois
16 Department of Veterans' Affairs;

17 (2) A hospital, sanitarium, or other institution whose
18 principal activity or business is the diagnosis, care, and
19 treatment of human illness through the maintenance and
20 operation as organized facilities therefor, which is
21 required to be licensed under the Hospital Licensing Act;

22 (3) Any "facility for child care" as defined in the
23 Child Care Act of 1969;

24 (4) Any "Community Living Facility" as defined in the
25 Community Living Facilities Licensing Act;

26 (5) Any "community residential alternative" as defined
27 in the Community Residential Alternatives Licensing Act;

28 (6) Any nursing home or sanatorium operated solely by
29 and for persons who rely exclusively upon treatment by
30 spiritual means through prayer, in accordance with the
31 creed or tenets of any well-recognized church or religious
32 denomination. However, such nursing home or sanatorium
33 shall comply with all local laws and rules relating to
34 sanitation and safety;

35 (7) Any facility licensed by the Department of Human
36 Services as a community-integrated living arrangement as

1 defined in the Community-Integrated Living Arrangements
2 Licensure and Certification Act;

3 (8) Any "Supportive Residence" licensed under the
4 Supportive Residences Licensing Act;

5 (9) Any "supportive living facility" in good standing
6 with the program established under Section 5-5.01a of the
7 Illinois Public Aid Code;

8 (10) Any assisted living or shared housing
9 establishment licensed under the Assisted Living and
10 Shared Housing Act; or

11 (11) An Alzheimer's disease management center
12 alternative health care model licensed under the
13 Alternative Health Care Delivery Act.

14 (12) An intermediate care facility for the
15 developmentally disabled or long-term care for under age 22
16 facility licensed under the MR/DD Community Care Act.

17 (Source: P.A. 94-342, eff. 7-26-05.)

18 (210 ILCS 45/3-202.5)

19 Sec. 3-202.5. Facility plan review; fees.

20 (a) Before commencing construction of a new facility or
21 specified types of alteration or additions to an existing long
22 term care facility involving major construction, as defined by
23 rule by the Department, with an estimated cost greater than
24 \$100,000, architectural drawings and specifications for the
25 facility shall be submitted to the Department for review and
26 approval. A facility may submit architectural drawings and
27 specifications for other construction projects for Department
28 review according to subsection (b) that shall not be subject to
29 fees under subsection (d). Review of drawings and
30 specifications shall be conducted by an employee of the
31 Department meeting the qualifications established by the
32 Department of Central Management Services class specifications
33 for such an individual's position or by a person contracting
34 with the Department who meets those class specifications. Final
35 approval of the drawings and specifications for compliance with

1 design and construction standards shall be obtained from the
2 Department before the alteration, addition, or new
3 construction is begun.

4 (b) The Department shall inform an applicant in writing
5 within 10 working days after receiving drawings and
6 specifications and the required fee, if any, from the applicant
7 whether the applicant's submission is complete or incomplete.
8 Failure to provide the applicant with this notice within 10
9 working days shall result in the submission being deemed
10 complete for purposes of initiating the 60-day review period
11 under this Section. If the submission is incomplete, the
12 Department shall inform the applicant of the deficiencies with
13 the submission in writing. If the submission is complete the
14 required fee, if any, has been paid, the Department shall
15 approve or disapprove drawings and specifications submitted to
16 the Department no later than 60 days following receipt by the
17 Department. The drawings and specifications shall be of
18 sufficient detail, as provided by Department rule, to enable
19 the Department to render a determination of compliance with
20 design and construction standards under this Act. If the
21 Department finds that the drawings are not of sufficient detail
22 for it to render a determination of compliance, the plans shall
23 be determined to be incomplete and shall not be considered for
24 purposes of initiating the 60 day review period. If a
25 submission of drawings and specifications is incomplete, the
26 applicant may submit additional information. The 60-day review
27 period shall not commence until the Department determines that
28 a submission of drawings and specifications is complete or the
29 submission is deemed complete. If the Department has not
30 approved or disapproved the drawings and specifications within
31 60 days, the construction, major alteration, or addition shall
32 be deemed approved. If the drawings and specifications are
33 disapproved, the Department shall state in writing, with
34 specificity, the reasons for the disapproval. The entity
35 submitting the drawings and specifications may submit
36 additional information in response to the written comments from

1 the Department or request a reconsideration of the disapproval.
2 A final decision of approval or disapproval shall be made
3 within 45 days of the receipt of the additional information or
4 reconsideration request. If denied, the Department shall state
5 the specific reasons for the denial.

6 (c) The Department shall provide written approval for
7 occupancy pursuant to subsection (g) and shall not issue a
8 violation to a facility as a result of a licensure or complaint
9 survey based upon the facility's physical structure if:

10 (1) the Department reviewed and approved or deemed
11 approved the drawings and specifications for compliance
12 with design and construction standards;

13 (2) the construction, major alteration, or addition
14 was built as submitted;

15 (3) the law or rules have not been amended since the
16 original approval; and

17 (4) the conditions at the facility indicate that there
18 is a reasonable degree of safety provided for the
19 residents.

20 (d) The Department shall charge the following fees in
21 connection with its reviews conducted before June 30, 2004
22 under this Section:

23 (1) (Blank).

24 (2) (Blank).

25 (3) If the estimated dollar value of the alteration,
26 addition, or new construction is \$100,000 or more but less
27 than \$500,000, the fee shall be the greater of \$2,400 or
28 1.2% of that value.

29 (4) If the estimated dollar value of the alteration,
30 addition, or new construction is \$500,000 or more but less
31 than \$1,000,000, the fee shall be the greater of \$6,000 or
32 0.96% of that value.

33 (5) If the estimated dollar value of the alteration,
34 addition, or new construction is \$1,000,000 or more but
35 less than \$5,000,000, the fee shall be the greater of
36 \$9,600 or 0.22% of that value.

1 (6) If the estimated dollar value of the alteration,
2 addition, or new construction is \$5,000,000 or more, the
3 fee shall be the greater of \$11,000 or 0.11% of that value,
4 but shall not exceed \$40,000.

5 The fees provided in this subsection (d) shall not apply to
6 major construction projects involving facility changes that
7 are required by Department rule amendments.

8 The fees provided in this subsection (d) shall also not
9 apply to major construction projects if 51% or more of the
10 estimated cost of the project is attributed to capital
11 equipment. For major construction projects where 51% or more of
12 the estimated cost of the project is attributed to capital
13 equipment, the Department shall by rule establish a fee that is
14 reasonably related to the cost of reviewing the project.

15 The Department shall not commence the facility plan review
16 process under this Section until the applicable fee has been
17 paid.

18 (e) All fees received by the Department under this Section
19 shall be deposited into the Health Facility Plan Review Fund, a
20 special fund created in the State Treasury. All fees paid by
21 long-term care facilities under subsection (d) shall be used
22 only to cover the costs relating to the Department's review of
23 long-term care facility projects under this Section. Moneys
24 shall be appropriated from that Fund to the Department only to
25 pay the costs of conducting reviews under this Section or under
26 Section 3-202.5 of the MR/DD Community Care Act. None of the
27 moneys in the Health Facility Plan Review Fund shall be used to
28 reduce the amount of General Revenue Fund moneys appropriated
29 to the Department for facility plan reviews conducted pursuant
30 to this Section.

31 (f) (1) The provisions of this amendatory Act of 1997
32 concerning drawings and specifications shall apply only to
33 drawings and specifications submitted to the Department on
34 or after October 1, 1997.

35 (2) On and after the effective date of this amendatory
36 Act of 1997 and before October 1, 1997, an applicant may

1 submit or resubmit drawings and specifications to the
2 Department and pay the fees provided in subsection (d). If
3 an applicant pays the fees provided in subsection (d) under
4 this paragraph (2), the provisions of subsection (b) shall
5 apply with regard to those drawings and specifications.

6 (g) The Department shall conduct an on-site inspection of
7 the completed project no later than 30 days after notification
8 from the applicant that the project has been completed and all
9 certifications required by the Department have been received
10 and accepted by the Department. The Department shall provide
11 written approval for occupancy to the applicant within 5
12 working days of the Department's final inspection, provided the
13 applicant has demonstrated substantial compliance as defined
14 by Department rule. Occupancy of new major construction is
15 prohibited until Department approval is received, unless the
16 Department has not acted within the time frames provided in
17 this subsection (g), in which case the construction shall be
18 deemed approved. Occupancy shall be authorized after any
19 required health inspection by the Department has been
20 conducted.

21 (h) The Department shall establish, by rule, a procedure to
22 conduct interim on-site review of large or complex construction
23 projects.

24 (i) The Department shall establish, by rule, an expedited
25 process for emergency repairs or replacement of like equipment.

26 (j) Nothing in this Section shall be construed to apply to
27 maintenance, upkeep, or renovation that does not affect the
28 structural integrity of the building, does not add beds or
29 services over the number for which the long-term care facility
30 is licensed, and provides a reasonable degree of safety for the
31 residents.

32 (Source: P.A. 90-327, eff. 8-8-97; 90-600, eff. 6-25-98;
33 91-712, eff. 7-1-00.)

34 (210 ILCS 45/3-206) (from Ch. 111 1/2, par. 4153-206)

35 Sec. 3-206. The Department shall prescribe a curriculum for

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

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

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

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

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

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

24 (5) Begin a current course of training for nursing
25 assistants, habilitation aides, or child care aides,
26 approved by the Department, within 45 days of initial
27 employment in the capacity of a nursing assistant,
28 habilitation aide, or child care aide at any facility. Such
29 courses of training shall be successfully completed within
30 120 days of initial employment in the capacity of nursing
31 assistant, habilitation aide, or child care aide at a
32 facility. Nursing assistants, habilitation aides, and
33 child care aides who are enrolled in approved courses in
34 community colleges or other educational institutions on a
35 term, semester or trimester basis, shall be exempt from the
36 120 day completion time limit. The Department shall adopt

1 rules for such courses of training. These rules shall
2 include procedures for facilities to carry on an approved
3 course of training within the facility.

4 The Department may accept comparable training in lieu
5 of the 120 hour course for student nurses, foreign nurses,
6 military personnel, or employes of the Department of Human
7 Services.

8 The facility shall develop and implement procedures,
9 which shall be approved by the Department, for an ongoing
10 review process, which shall take place within the facility,
11 for nursing assistants, habilitation aides, and child care
12 aides.

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

26 (6) Be familiar with and have general skills related to
27 resident care.

28 (a-0.5) An educational entity, other than a secondary
29 school, conducting a nursing assistant, habilitation aide, or
30 child care aide training program shall initiate a UCIA criminal
31 history record check prior to entry of an individual into the
32 training program. A secondary school may initiate a UCIA
33 criminal history record check prior to the entry of an
34 individual into a training program.

35 (a-1) Nursing assistants, habilitation aides, or child
36 care aides seeking to be included on the registry on or after

1 January 1, 1996 must authorize the Department of Public Health
2 or its designee that tests nursing assistants to request a UCIA
3 criminal history check and submit all necessary information.

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

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

12 (d) Proof of compliance by each employee with the
13 requirements set out in this Section shall be maintained for
14 each such employee by each facility in the individual personnel
15 folder of the employee.

16 (e) Each facility shall certify to the Department on a form
17 provided by the Department the name and residence address of
18 each employee, and that each employee subject to this Section
19 meets all the requirements of this Section.

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

22 (g) Each skilled nursing ~~and intermediate care~~ facility
23 that admits persons who are diagnosed as having Alzheimer's
24 disease or related dementias shall require all nursing
25 assistants, habilitation aides, or child care aides, who did
26 not receive 12 hours of training in the care and treatment of
27 such residents during the training required under paragraph (5)
28 of subsection (a), to obtain 12 hours of in-house training in
29 the care and treatment of such residents. If the facility does
30 not provide the training in-house, the training shall be
31 obtained from other facilities, community colleges or other
32 educational institutions that have a recognized course for such
33 training. The Department shall, by rule, establish a recognized
34 course for such training. The Department's rules shall provide
35 that such training may be conducted in-house at each facility
36 subject to the requirements of this subsection, in which case

1 such training shall be monitored by the Department.

2 The Department's rules shall also provide for
3 circumstances and procedures whereby any person who has
4 received training that meets the requirements of this
5 subsection shall not be required to undergo additional training
6 if he or she is transferred to or obtains employment at a
7 different facility but remains continuously employed as a
8 nursing assistant, habilitation aide, or child care aide.
9 Licensed sheltered care facilities shall be exempt from the
10 requirements of this Section.

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

12 Section 90-25. The Nursing Home Administrators Licensing
13 and Disciplinary Act is amended by changing Sections 4 and 17
14 as follows:

15 (225 ILCS 70/4) (from Ch. 111, par. 3654)

16 (Section scheduled to be repealed on January 1, 2008)

17 Sec. 4. Definitions. For purposes of this Act, the
18 following definitions shall have the following meanings,
19 except where the context requires otherwise:

20 (1) "Act" means the Nursing Home Administrators
21 Licensing and Disciplinary Act.

22 (2) "Department" means the Department of Professional
23 Regulation.

24 (3) "Director" means the Director of Professional
25 Regulation.

26 (4) "Board" means the Nursing Home Administrators
27 Licensing and Disciplinary Board appointed by the
28 Governor.

29 (5) "Nursing home administrator" means the individual
30 licensed under this Act and directly responsible for
31 planning, organizing, directing and supervising the
32 operation of a nursing home, or who in fact performs such
33 functions, whether or not such functions are delegated to
34 one or more other persons.

1 (6) "Nursing home" or "facility" means any entity that
2 is required to be licensed by the Department of Public
3 Health under the Nursing Home Care Act or the MR/DD
4 Community Care Act, as amended, other than a sheltered care
5 home as defined thereunder, and includes private homes,
6 institutions, buildings, residences, or other places,
7 whether operated for profit or not, irrespective of the
8 names attributed to them, county homes for the infirm and
9 chronically ill operated pursuant to the County Nursing
10 Home Act, as amended, and any similar institutions operated
11 by a political subdivision of the State of Illinois that
12 provide, though their ownership or management,
13 maintenance, personal care, and nursing for 3 or more
14 persons, not related to the owner by blood or marriage, or
15 any similar facilities in which maintenance is provided to
16 3 or more persons who by reason of illness of physical
17 infirmity require personal care and nursing.

18 (7) "Maintenance" means food, shelter and laundry.

19 (8) "Personal care" means assistance with meals,
20 dressing, movement, bathing, or other personal needs, or
21 general supervision of the physical and mental well-being
22 of an individual who because of age, physical, or mental
23 disability, emotion or behavior disorder, or mental
24 retardation is incapable of managing his or her person,
25 whether or not a guardian has been appointed for such
26 individual. For the purposes of this Act, this definition
27 does not include the professional services of a nurse.

28 (9) "Nursing" means professional nursing or practical
29 nursing, as those terms are defined in the Nursing and
30 Advanced Practice Nursing Act, for sick or infirm persons
31 who are under the care and supervision of licensed
32 physicians or dentists.

33 (10) "Disciplinary action" means revocation,
34 suspension, probation, supervision, reprimand, required
35 education, fines or any other action taken by the
36 Department against a person holding a license.

1 (11) "Impaired" means the inability to practice with
2 reasonable skill and safety due to physical or mental
3 disabilities as evidenced by a written determination or
4 written consent based on clinical evidence including
5 deterioration through the aging process or loss of motor
6 skill, or abuse of drugs or alcohol, of sufficient degree
7 to diminish a person's ability to administer a nursing
8 home.

9 (Source: P.A. 90-61, eff. 12-30-97; 90-742, eff. 8-13-98.)

10 (225 ILCS 70/17) (from Ch. 111, par. 3667)

11 (Section scheduled to be repealed on January 1, 2008)

12 Sec. 17. Grounds for disciplinary action.

13 (a) The Department may impose fines not to exceed \$1,000,
14 or may refuse to issue or to renew, or may revoke, suspend,
15 place on probation, censure, reprimand or take other
16 disciplinary action with regard to the license of any person,
17 for any one or combination of the following causes:

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

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

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

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

31 (5) Failing to respond within 60 days, to a written
32 request made by the Department for information.

33 (6) Engaging in dishonorable, unethical or
34 unprofessional conduct of a character likely to deceive,
35 defraud or harm the public.

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

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

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

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

14 (11) Physical illness, including but not limited to,
15 deterioration through the aging process, or loss of motor
16 skill that results in the inability to practice the
17 profession with reasonable judgment, skill or safety.

18 (12) Disregard or violation of this Act or of any rule
19 issued pursuant to this Act.

20 (13) Aiding or abetting another in the violation of
21 this Act or any rule or regulation issued pursuant to this
22 Act.

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

25 (15) Conviction of any crime an essential element of
26 which is misstatement, fraud or dishonesty, or conviction
27 in this State or another state of any crime that is a
28 felony under the laws of this State or conviction of a
29 felony in a federal court.

30 (16) Professional incompetence in the practice of
31 nursing home administration.

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

35 (18) Violation of the Nursing Home Care Act or the
36 MR/DD Community Care Act or of any rule issued under the

1 Nursing Home Care Act or the MR/DD Community Care Act.

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

10 The entry of an order or judgment by any circuit court
11 establishing that any person holding a license under this Act
12 is a person in need of mental treatment operates as a
13 suspension of that license. That person may resume their
14 practice only upon the entry of a Department order based upon a
15 finding by the Board that they have been determined to be
16 recovered from mental illness by the court and upon the Board's
17 recommendation that they be permitted to resume their practice.

18 The Department, upon the recommendation of the Board, shall
19 adopt rules which set forth standards to be used in determining
20 what constitutes:

21 (a) when a person will be deemed sufficiently
22 rehabilitated to warrant the public trust;

23 (b) dishonorable, unethical or unprofessional conduct
24 of a character likely to deceive, defraud, or harm the
25 public;

26 (c) immoral conduct in the commission of any act
27 related to the licensee's practice; and

28 (d) professional incompetence in the practice of
29 nursing home administration.

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

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

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

18 If the Department or Board finds an individual unable to
19 practice because of the reasons set forth in this Section, the
20 Department or Board shall require such individual to submit to
21 care, counseling, or treatment by physicians approved or
22 designated by the Department or Board, as a condition, term, or
23 restriction for continued, reinstated, or renewed licensure to
24 practice; or in lieu of care, counseling, or treatment, the
25 Department may file, or the Board may recommend to the
26 Department to file, a complaint to immediately suspend, revoke,
27 or otherwise discipline the license of the individual. Any
28 individual whose license was granted pursuant to this Act or
29 continued, reinstated, renewed, disciplined or supervised,
30 subject to such terms, conditions or restrictions who shall
31 fail to comply with such terms, conditions or restrictions
32 shall be referred to the Director for a determination as to
33 whether the licensee shall have his or her license suspended
34 immediately, pending a hearing by the Department. In instances
35 in which the Director immediately suspends a license under this
36 Section, a hearing upon such person's license must be convened

1 by the Board within 15 days after such suspension and completed
2 without appreciable delay. The Department and Board shall have
3 the authority to review the subject administrator's record of
4 treatment and counseling regarding the impairment, to the
5 extent permitted by applicable federal statutes and
6 regulations safeguarding the confidentiality of medical
7 records.

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

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

21 (c) Members of the Board, and persons retained under
22 contract to assist and advise in an investigation, shall be
23 indemnified by the State for any actions occurring within the
24 scope of services on or for the Board, done in good faith and
25 not wilful and wanton in nature. The Attorney General shall
26 defend all such actions unless he or she determines either that
27 there would be a conflict of interest in such representation or
28 that the actions complained of were not in good faith or were
29 wilful and wanton.

30 Should the Attorney General decline representation, a
31 person entitled to indemnification under this Section shall
32 have the right to employ counsel of his or her choice, whose
33 fees shall be provided by the State, after approval by the
34 Attorney General, unless there is a determination by a court
35 that the member's actions were not in good faith or were wilful
36 and wanton.

1 A person entitled to indemnification under this Section
2 must notify the Attorney General within 7 days of receipt of
3 notice of the initiation of any action involving services of
4 the Board. Failure to so notify the Attorney General shall
5 constitute an absolute waiver of the right to a defense and
6 indemnification.

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

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

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

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

32 (Source: P.A. 89-197, eff. 7-21-95; 90-61, eff. 12-30-97.)

33 Section 90-30. The Illinois Public Aid Code is amended by
34 changing Sections 5-5.4, 5B-1, and 5E-5 as follows:

1 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

2 Sec. 5-5.4. Standards of Payment - Department of Healthcare
3 and Family Services ~~Public Aid~~. The Department of Healthcare
4 and Family Services ~~Public Aid~~ shall develop standards of
5 payment of skilled nursing and intermediate care services in
6 facilities providing such services under this Article which:

7 (1) Provide for the determination of a facility's payment
8 for skilled nursing and intermediate care services on a
9 prospective basis. The amount of the payment rate for all
10 nursing facilities certified by the Department of Public Health
11 under the MR/DD Community Care Act or the Nursing Home Care Act
12 as Intermediate Care for the Developmentally Disabled
13 facilities, Long Term Care for Under Age 22 facilities, Skilled
14 Nursing facilities, or Intermediate Care facilities under the
15 medical assistance program shall be prospectively established
16 annually on the basis of historical, financial, and statistical
17 data reflecting actual costs from prior years, which shall be
18 applied to the current rate year and updated for inflation,
19 except that the capital cost element for newly constructed
20 facilities shall be based upon projected budgets. The annually
21 established payment rate shall take effect on July 1 in 1984
22 and subsequent years. No rate increase and no update for
23 inflation shall be provided on or after July 1, 1994 and before
24 July 1, 2006, unless specifically provided for in this Section.
25 The changes made by this amendatory Act of the 93rd General
26 Assembly extending the duration of the prohibition against a
27 rate increase or update for inflation are effective retroactive
28 to July 1, 2004.

29 For facilities licensed by the Department of Public Health
30 under the Nursing Home Care Act as Intermediate Care for the
31 Developmentally Disabled facilities or Long Term Care for Under
32 Age 22 facilities, the rates taking effect on July 1, 1998
33 shall include an increase of 3%. For facilities licensed by the
34 Department of Public Health under the Nursing Home Care Act as
35 Skilled Nursing facilities or Intermediate Care facilities,
36 the rates taking effect on July 1, 1998 shall include an

1 increase of 3% plus \$1.10 per resident-day, as defined by the
2 Department. For facilities licensed by the Department of Public
3 Health under the Nursing Home Care Act as Intermediate Care
4 Facilities for the Developmentally Disabled or Long Term Care
5 for Under Age 22 facilities, the rates taking effect on January
6 1, 2006 shall include an increase of 3%.

7 For facilities licensed by the Department of Public Health
8 under the Nursing Home Care Act as Intermediate Care for the
9 Developmentally Disabled facilities or Long Term Care for Under
10 Age 22 facilities, the rates taking effect on July 1, 1999
11 shall include an increase of 1.6% plus \$3.00 per resident-day,
12 as defined by the Department. For facilities licensed by the
13 Department of Public Health under the Nursing Home Care Act as
14 Skilled Nursing facilities or Intermediate Care facilities,
15 the rates taking effect on July 1, 1999 shall include an
16 increase of 1.6% and, for services provided on or after October
17 1, 1999, shall be increased by \$4.00 per resident-day, as
18 defined by the Department.

19 For facilities licensed by the Department of Public Health
20 under the Nursing Home Care Act as Intermediate Care for the
21 Developmentally Disabled facilities or Long Term Care for Under
22 Age 22 facilities, the rates taking effect on July 1, 2000
23 shall include an increase of 2.5% per resident-day, as defined
24 by the Department. For facilities licensed by the Department of
25 Public Health under the Nursing Home Care Act as Skilled
26 Nursing facilities or Intermediate Care facilities, the rates
27 taking effect on July 1, 2000 shall include an increase of 2.5%
28 per resident-day, as defined by the Department.

29 For facilities licensed by the Department of Public Health
30 under the Nursing Home Care Act as skilled nursing facilities
31 or intermediate care facilities, a new payment methodology must
32 be implemented for the nursing component of the rate effective
33 July 1, 2003. The Department of Public Aid (now Healthcare and
34 Family Services) shall develop the new payment methodology
35 using the Minimum Data Set (MDS) as the instrument to collect
36 information concerning nursing home resident condition

1 necessary to compute the rate. The Department ~~of Public Aid~~
2 shall develop the new payment methodology to meet the unique
3 needs of Illinois nursing home residents while remaining
4 subject to the appropriations provided by the General Assembly.
5 A transition period from the payment methodology in effect on
6 June 30, 2003 to the payment methodology in effect on July 1,
7 2003 shall be provided for a period not exceeding 3 years after
8 implementation of the new payment methodology as follows:

9 (A) For a facility that would receive a lower nursing
10 component rate per patient day under the new system than
11 the facility received effective on the date immediately
12 preceding the date that the Department implements the new
13 payment methodology, the nursing component rate per
14 patient day for the facility shall be held at the level in
15 effect on the date immediately preceding the date that the
16 Department implements the new payment methodology until a
17 higher nursing component rate of reimbursement is achieved
18 by that facility.

19 (B) For a facility that would receive a higher nursing
20 component rate per patient day under the payment
21 methodology in effect on July 1, 2003 than the facility
22 received effective on the date immediately preceding the
23 date that the Department implements the new payment
24 methodology, the nursing component rate per patient day for
25 the facility shall be adjusted.

26 (C) Notwithstanding paragraphs (A) and (B), the
27 nursing component rate per patient day for the facility
28 shall be adjusted subject to appropriations provided by the
29 General Assembly.

30 For facilities licensed by the Department of Public Health
31 under the Nursing Home Care Act as Intermediate Care for the
32 Developmentally Disabled facilities or Long Term Care for Under
33 Age 22 facilities, the rates taking effect on March 1, 2001
34 shall include a statewide increase of 7.85%, as defined by the
35 Department.

36 For facilities licensed by the Department of Public Health

1 under the Nursing Home Care Act as Intermediate Care for the
2 Developmentally Disabled facilities or Long Term Care for Under
3 Age 22 facilities, the rates taking effect on April 1, 2002
4 shall include a statewide increase of 2.0%, as defined by the
5 Department. This increase terminates on July 1, 2002; beginning
6 July 1, 2002 these rates are reduced to the level of the rates
7 in effect on March 31, 2002, as defined by the Department.

8 For facilities licensed by the Department of Public Health
9 under the Nursing Home Care Act as skilled nursing facilities
10 or intermediate care facilities, the rates taking effect on
11 July 1, 2001 shall be computed using the most recent cost
12 reports on file with the Department of Public Aid no later than
13 April 1, 2000, updated for inflation to January 1, 2001. For
14 rates effective July 1, 2001 only, rates shall be the greater
15 of the rate computed for July 1, 2001 or the rate effective on
16 June 30, 2001.

17 Notwithstanding any other provision of this Section, for
18 facilities licensed by the Department of Public Health under
19 the Nursing Home Care Act as skilled nursing facilities or
20 intermediate care facilities, the Illinois Department shall
21 determine by rule the rates taking effect on July 1, 2002,
22 which shall be 5.9% less than the rates in effect on June 30,
23 2002.

24 Notwithstanding any other provision of this Section, for
25 facilities licensed by the Department of Public Health under
26 the Nursing Home Care Act as skilled nursing facilities or
27 intermediate care facilities, if the payment methodologies
28 required under Section 5A-12 and the waiver granted under 42
29 CFR 433.68 are approved by the United States Centers for
30 Medicare and Medicaid Services, the rates taking effect on July
31 1, 2004 shall be 3.0% greater than the rates in effect on June
32 30, 2004. These rates shall take effect only upon approval and
33 implementation of the payment methodologies required under
34 Section 5A-12.

35 Notwithstanding any other provisions of this Section, for
36 facilities licensed by the Department of Public Health under

1 the Nursing Home Care Act as skilled nursing facilities or
2 intermediate care facilities, the rates taking effect on
3 January 1, 2005 shall be 3% more than the rates in effect on
4 December 31, 2004.

5 For facilities licensed by the Department of Public Health
6 under the Nursing Home Care Act as Intermediate Care for the
7 Developmentally Disabled facilities or as long-term care
8 facilities for residents under 22 years of age, the rates
9 taking effect on July 1, 2003 shall include a statewide
10 increase of 4%, as defined by the Department.

11 Notwithstanding any other provision of this Section, for
12 facilities licensed by the Department of Public Health under
13 the Nursing Home Care Act as skilled nursing facilities or
14 intermediate care facilities, effective January 1, 2005,
15 facility rates shall be increased by the difference between (i)
16 a facility's per diem property, liability, and malpractice
17 insurance costs as reported in the cost report filed with the
18 Department of Public Aid and used to establish rates effective
19 July 1, 2001 and (ii) those same costs as reported in the
20 facility's 2002 cost report. These costs shall be passed
21 through to the facility without caps or limitations, except for
22 adjustments required under normal auditing procedures.

23 Rates established effective each July 1 shall govern
24 payment for services rendered throughout that fiscal year,
25 except that rates established on July 1, 1996 shall be
26 increased by 6.8% for services provided on or after January 1,
27 1997. Such rates will be based upon the rates calculated for
28 the year beginning July 1, 1990, and for subsequent years
29 thereafter until June 30, 2001 shall be based on the facility
30 cost reports for the facility fiscal year ending at any point
31 in time during the previous calendar year, updated to the
32 midpoint of the rate year. The cost report shall be on file
33 with the Department no later than April 1 of the current rate
34 year. Should the cost report not be on file by April 1, the
35 Department shall base the rate on the latest cost report filed
36 by each skilled care facility and intermediate care facility,

1 updated to the midpoint of the current rate year. In
2 determining rates for services rendered on and after July 1,
3 1985, fixed time shall not be computed at less than zero. The
4 Department shall not make any alterations of regulations which
5 would reduce any component of the Medicaid rate to a level
6 below what that component would have been utilizing in the rate
7 effective on July 1, 1984.

8 (2) Shall take into account the actual costs incurred by
9 facilities in providing services for recipients of skilled
10 nursing and intermediate care services under the medical
11 assistance program.

12 (3) Shall take into account the medical and psycho-social
13 characteristics and needs of the patients.

14 (4) Shall take into account the actual costs incurred by
15 facilities in meeting licensing and certification standards
16 imposed and prescribed by the State of Illinois, any of its
17 political subdivisions or municipalities and by the U.S.
18 Department of Health and Human Services pursuant to Title XIX
19 of the Social Security Act.

20 The Department of Healthcare and Family Services ~~Public Aid~~
21 shall develop precise standards for payments to reimburse
22 nursing facilities for any utilization of appropriate
23 rehabilitative personnel for the provision of rehabilitative
24 services which is authorized by federal regulations, including
25 reimbursement for services provided by qualified therapists or
26 qualified assistants, and which is in accordance with accepted
27 professional practices. Reimbursement also may be made for
28 utilization of other supportive personnel under appropriate
29 supervision.

30 (Source: P.A. 93-20, eff. 6-20-03; 93-649, eff. 1-8-04; 93-659,
31 eff. 2-3-04; 93-841, eff. 7-30-04; 93-1087, eff. 2-28-05;
32 94-48, eff. 7-1-05; 94-85, eff. 6-28-05; 94-697, eff. 11-21-05;
33 revised 12-15-05.)

34 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

35 Sec. 5B-1. Definitions. As used in this Article, unless the

1 context requires otherwise:

2 "Fund" means the Long-Term Care Provider Fund.

3 "Long-term care facility" means (i) a skilled nursing or
4 intermediate long term care facility, whether public or private
5 and whether organized for profit or not-for-profit, that is
6 subject to licensure by the Illinois Department of Public
7 Health under the Nursing Home Care Act or the MR/DD Community
8 Care Act, including a county nursing home directed and
9 maintained under Section 5-1005 of the Counties Code, and (ii)
10 a part of a hospital in which skilled or intermediate long-term
11 care services within the meaning of Title XVIII or XIX of the
12 Social Security Act are provided; except that the term
13 "long-term care facility" does not include a facility operated
14 solely as an intermediate care facility for the mentally
15 retarded within the meaning of Title XIX of the Social Security
16 Act.

17 "Long-term care provider" means (i) a person licensed by
18 the Department of Public Health to operate and maintain a
19 skilled nursing or intermediate long-term care facility or (ii)
20 a hospital provider that provides skilled or intermediate
21 long-term care services within the meaning of Title XVIII or
22 XIX of the Social Security Act. For purposes of this paragraph,
23 "person" means any political subdivision of the State,
24 municipal corporation, individual, firm, partnership,
25 corporation, company, limited liability company, association,
26 joint stock association, or trust, or a receiver, executor,
27 trustee, guardian, or other representative appointed by order
28 of any court. "Hospital provider" means a person licensed by
29 the Department of Public Health to conduct, operate, or
30 maintain a hospital.

31 "Occupied bed days" shall be computed separately for each
32 long-term care facility operated or maintained by a long-term
33 care provider, and means the sum for all beds of the number of
34 days during the year on which each bed is occupied by a
35 resident (other than a resident receiving care at an
36 intermediate care facility for the mentally retarded within the

1 meaning of Title XIX of the Social Security Act).

2 "Intergovernmental transfer payment" means the payments
3 established under Section 15-3 of this Code, and includes
4 without limitation payments payable under that Section for
5 July, August, and September of 1992.

6 (Source: P.A. 87-861.)

7 (305 ILCS 5/5E-5)

8 Sec. 5E-5. Definitions. As used in this Article, unless the
9 context requires otherwise:

10 "Nursing home" means (i) a skilled nursing or intermediate
11 long-term care facility, whether public or private and whether
12 organized for profit or not-for-profit, that is subject to
13 licensure by the Illinois Department of Public Health under the
14 Nursing Home Care Act or the MR/DD Community Care Act,
15 including a county nursing home directed and maintained under
16 Section 5-1005 of the Counties Code, and (ii) a part of a
17 hospital in which skilled or intermediate long-term care
18 services within the meaning of Title XVIII or XIX of the Social
19 Security Act are provided; except that the term "nursing home"
20 does not include a facility operated solely as an intermediate
21 care facility for the mentally retarded within the meaning of
22 Title XIX of the Social Security Act.

23 "Nursing home provider" means (i) a person licensed by the
24 Department of Public Health to operate and maintain a skilled
25 nursing or intermediate long-term care facility which charges
26 its residents, a third party payor, Medicaid, or Medicare for
27 skilled nursing or intermediate long-term care services, or
28 (ii) a hospital provider that provides skilled or intermediate
29 long-term care services within the meaning of Title XVIII or
30 XIX of the Social Security Act. For purposes of this paragraph,
31 "person" means any political subdivision of the State,
32 municipal corporation, individual, firm, partnership,
33 corporation, company, limited liability company, association,
34 joint stock association, or trust, or a receiver, executor,
35 trustee, guardian, or other representative appointed by order

1 of any court. "Hospital provider" means a person licensed by
2 the Department of Public Health to conduct, operate, or
3 maintain a hospital.

4 "Licensed bed days" shall be computed separately for each
5 nursing home operated or maintained by a nursing home provider
6 and means, with respect to a nursing home provider, the sum for
7 all nursing home beds of the number of days during a calendar
8 quarter on which each bed is covered by a license issued to
9 that provider under the Nursing Home Care Act or the Hospital
10 Licensing Act.

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

12 Section 90-35. The Nursing Home Grant Assistance Act is
13 amended by changing Section 5 as follows:

14 (305 ILCS 40/5) (from Ch. 23, par. 7100-5)

15 Sec. 5. Definitions. As used in this Act, unless the
16 context requires otherwise:

17 "Applicant" means an eligible individual who makes a
18 payment of at least \$1 in a quarter to a nursing home.

19 "Application" means the receipt by a nursing home of at
20 least \$1 from an eligible individual that is a resident of the
21 home.

22 "Department" means the Department of Revenue.

23 "Director" means the Director of the Department of Revenue.

24 "Distribution agent" means a nursing home that is residence
25 to one or more eligible individuals, which receives an
26 application from one or more applicants for participation in
27 the Nursing Home Grant Assistance Program provided for by this
28 Act, and is thereby designated as distributing agent by such
29 applicant or applicants, and which is thereby authorized by
30 virtue of its license to receive from the Department and
31 distribute to eligible individuals residing in the nursing home
32 Nursing Home Grant Assistance payments under this Act.

33 "Qualified distribution agent" means a distribution agent
34 that the Department of Public Health has certified to the

1 Department of Revenue to be a licensed nursing home in good
2 standing.

3 "Eligible individual" means an individual eligible for a
4 nursing home grant assistance payment because he or she meets
5 each of the following requirements:

6 (1) The individual resides, after June 30, 1992, in a
7 nursing home as defined in this Act.

8 (2) For each day for which nursing home grant
9 assistance is sought, the individual's nursing home care
10 was not paid for, in whole or in part, by a federal, State,
11 or combined federal-State medical care program; the
12 receipt of Medicare Part B benefits does not make a person
13 ineligible for nursing home grant assistance.

14 (3) The individual's annual adjusted gross income,
15 after payment of any expenses for nursing home care, does
16 not exceed 250% of the federal poverty guidelines for an
17 individual as published annually by the U.S. Department of
18 Health and Human Services for purposes of determining
19 Medicaid eligibility.

20 "Fund" means the Nursing Home Grant Assistance Fund.

21 "Nursing home" means a skilled nursing or intermediate long
22 term care facility that is subject to licensure by the Illinois
23 Department of Public Health under the Nursing Home Care Act or
24 the MR/DD Community Care Act.

25 "Occupied bed days" means the sum for all beds of the
26 number of days during a quarter for which grant assistance is
27 sought under this Act on which a bed is occupied by an
28 individual.

29 (Source: P.A. 87-863.)

30 Section 90-40. The Unified Code of Corrections is amended
31 by changing Section 5-5-3.2 as follows:

32 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

33 Sec. 5-5-3.2. Factors in Aggravation.

34 (a) The following factors shall be accorded weight in favor

1 of imposing a term of imprisonment or may be considered by the
2 court as reasons to impose a more severe sentence under Section
3 5-8-1:

4 (1) the defendant's conduct caused or threatened
5 serious harm;

6 (2) the defendant received compensation for committing
7 the offense;

8 (3) the defendant has a history of prior delinquency or
9 criminal activity;

10 (4) the defendant, by the duties of his office or by
11 his position, was obliged to prevent the particular offense
12 committed or to bring the offenders committing it to
13 justice;

14 (5) the defendant held public office at the time of the
15 offense, and the offense related to the conduct of that
16 office;

17 (6) the defendant utilized his professional reputation
18 or position in the community to commit the offense, or to
19 afford him an easier means of committing it;

20 (7) the sentence is necessary to deter others from
21 committing the same crime;

22 (8) the defendant committed the offense against a
23 person 60 years of age or older or such person's property;

24 (9) the defendant committed the offense against a
25 person who is physically handicapped or such person's
26 property;

27 (10) by reason of another individual's actual or
28 perceived race, color, creed, religion, ancestry, gender,
29 sexual orientation, physical or mental disability, or
30 national origin, the defendant committed the offense
31 against (i) the person or property of that individual; (ii)
32 the person or property of a person who has an association
33 with, is married to, or has a friendship with the other
34 individual; or (iii) the person or property of a relative
35 (by blood or marriage) of a person described in clause (i)
36 or (ii). For the purposes of this Section, "sexual

1 orientation" means heterosexuality, homosexuality, or
2 bisexuality;

3 (11) the offense took place in a place of worship or on
4 the grounds of a place of worship, immediately prior to,
5 during or immediately following worship services. For
6 purposes of this subparagraph, "place of worship" shall
7 mean any church, synagogue or other building, structure or
8 place used primarily for religious worship;

9 (12) the defendant was convicted of a felony committed
10 while he was released on bail or his own recognizance
11 pending trial for a prior felony and was convicted of such
12 prior felony, or the defendant was convicted of a felony
13 committed while he was serving a period of probation,
14 conditional discharge, or mandatory supervised release
15 under subsection (d) of Section 5-8-1 for a prior felony;

16 (13) the defendant committed or attempted to commit a
17 felony while he was wearing a bulletproof vest. For the
18 purposes of this paragraph (13), a bulletproof vest is any
19 device which is designed for the purpose of protecting the
20 wearer from bullets, shot or other lethal projectiles;

21 (14) the defendant held a position of trust or
22 supervision such as, but not limited to, family member as
23 defined in Section 12-12 of the Criminal Code of 1961,
24 teacher, scout leader, baby sitter, or day care worker, in
25 relation to a victim under 18 years of age, and the
26 defendant committed an offense in violation of Section
27 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
28 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
29 against that victim;

30 (15) the defendant committed an offense related to the
31 activities of an organized gang. For the purposes of this
32 factor, "organized gang" has the meaning ascribed to it in
33 Section 10 of the Streetgang Terrorism Omnibus Prevention
34 Act;

35 (16) the defendant committed an offense in violation of
36 one of the following Sections while in a school, regardless

1 of the time of day or time of year; on any conveyance
2 owned, leased, or contracted by a school to transport
3 students to or from school or a school related activity; on
4 the real property of a school; or on a public way within
5 1,000 feet of the real property comprising any school:
6 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
7 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
8 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
9 33A-2 of the Criminal Code of 1961;

10 (16.5) the defendant committed an offense in violation
11 of one of the following Sections while in a day care
12 center, regardless of the time of day or time of year; on
13 the real property of a day care center, regardless of the
14 time of day or time of year; or on a public way within
15 1,000 feet of the real property comprising any day care
16 center, regardless of the time of day or time of year:
17 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
18 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
19 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
20 33A-2 of the Criminal Code of 1961;

21 (17) the defendant committed the offense by reason of
22 any person's activity as a community policing volunteer or
23 to prevent any person from engaging in activity as a
24 community policing volunteer. For the purpose of this
25 Section, "community policing volunteer" has the meaning
26 ascribed to it in Section 2-3.5 of the Criminal Code of
27 1961;

28 (18) the defendant committed the offense in a nursing
29 home or on the real property comprising a nursing home. For
30 the purposes of this paragraph (18), "nursing home" means a
31 skilled nursing or intermediate long term care facility
32 that is subject to license by the Illinois Department of
33 Public Health under the Nursing Home Care Act or the MR/DD
34 Community Care Act;

35 (19) the defendant was a federally licensed firearm
36 dealer and was previously convicted of a violation of

1 subsection (a) of Section 3 of the Firearm Owners
2 Identification Card Act and has now committed either a
3 felony violation of the Firearm Owners Identification Card
4 Act or an act of armed violence while armed with a firearm;

5 ~~or~~

6 (20) the defendant (i) committed the offense of
7 reckless homicide under Section 9-3 of the Criminal Code of
8 1961 or the offense of driving under the influence of
9 alcohol, other drug or drugs, intoxicating compound or
10 compounds or any combination thereof under Section 11-501
11 of the Illinois Vehicle Code or a similar provision of a
12 local ordinance and (ii) was operating a motor vehicle in
13 excess of 20 miles per hour over the posted speed limit as
14 provided in Article VI of Chapter 11 of the Illinois
15 Vehicle Code; or-

16 (21) ~~(20)~~ the defendant (i) committed the offense of
17 reckless driving or aggravated reckless driving under
18 Section 11-503 of the Illinois Vehicle Code and (ii) was
19 operating a motor vehicle in excess of 20 miles per hour
20 over the posted speed limit as provided in Article VI of
21 Chapter 11 of the Illinois Vehicle Code.

22 For the purposes of this Section:

23 "School" is defined as a public or private elementary or
24 secondary school, community college, college, or university.

25 "Day care center" means a public or private State certified
26 and licensed day care center as defined in Section 2.09 of the
27 Child Care Act of 1969 that displays a sign in plain view
28 stating that the property is a day care center.

29 (b) The following factors may be considered by the court as
30 reasons to impose an extended term sentence under Section 5-8-2
31 upon any offender:

32 (1) When a defendant is convicted of any felony, after
33 having been previously convicted in Illinois or any other
34 jurisdiction of the same or similar class felony or greater
35 class felony, when such conviction has occurred within 10
36 years after the previous conviction, excluding time spent

1 in custody, and such charges are separately brought and
2 tried and arise out of different series of acts; or

3 (2) When a defendant is convicted of any felony and the
4 court finds that the offense was accompanied by
5 exceptionally brutal or heinous behavior indicative of
6 wanton cruelty; or

7 (3) When a defendant is convicted of voluntary
8 manslaughter, second degree murder, involuntary
9 manslaughter or reckless homicide in which the defendant
10 has been convicted of causing the death of more than one
11 individual; or

12 (4) When a defendant is convicted of any felony
13 committed against:

14 (i) a person under 12 years of age at the time of
15 the offense or such person's property;

16 (ii) a person 60 years of age or older at the time
17 of the offense or such person's property; or

18 (iii) a person physically handicapped at the time
19 of the offense or such person's property; or

20 (5) In the case of a defendant convicted of aggravated
21 criminal sexual assault or criminal sexual assault, when
22 the court finds that aggravated criminal sexual assault or
23 criminal sexual assault was also committed on the same
24 victim by one or more other individuals, and the defendant
25 voluntarily participated in the crime with the knowledge of
26 the participation of the others in the crime, and the
27 commission of the crime was part of a single course of
28 conduct during which there was no substantial change in the
29 nature of the criminal objective; or

30 (6) When a defendant is convicted of any felony and the
31 offense involved any of the following types of specific
32 misconduct committed as part of a ceremony, rite,
33 initiation, observance, performance, practice or activity
34 of any actual or ostensible religious, fraternal, or social
35 group:

36 (i) the brutalizing or torturing of humans or

1 animals;

2 (ii) the theft of human corpses;

3 (iii) the kidnapping of humans;

4 (iv) the desecration of any cemetery, religious,
5 fraternal, business, governmental, educational, or
6 other building or property; or

7 (v) ritualized abuse of a child; or

8 (7) When a defendant is convicted of first degree
9 murder, after having been previously convicted in Illinois
10 of any offense listed under paragraph (c)(2) of Section
11 5-5-3, when such conviction has occurred within 10 years
12 after the previous conviction, excluding time spent in
13 custody, and such charges are separately brought and tried
14 and arise out of different series of acts; or

15 (8) When a defendant is convicted of a felony other
16 than conspiracy and the court finds that the felony was
17 committed under an agreement with 2 or more other persons
18 to commit that offense and the defendant, with respect to
19 the other individuals, occupied a position of organizer,
20 supervisor, financier, or any other position of management
21 or leadership, and the court further finds that the felony
22 committed was related to or in furtherance of the criminal
23 activities of an organized gang or was motivated by the
24 defendant's leadership in an organized gang; or

25 (9) When a defendant is convicted of a felony violation
26 of Section 24-1 of the Criminal Code of 1961 and the court
27 finds that the defendant is a member of an organized gang;
28 or

29 (10) When a defendant committed the offense using a
30 firearm with a laser sight attached to it. For purposes of
31 this paragraph (10), "laser sight" has the meaning ascribed
32 to it in Section 24.6-5 of the Criminal Code of 1961; or

33 (11) When a defendant who was at least 17 years of age
34 at the time of the commission of the offense is convicted
35 of a felony and has been previously adjudicated a
36 delinquent minor under the Juvenile Court Act of 1987 for

1 an act that if committed by an adult would be a Class X or
2 Class 1 felony when the conviction has occurred within 10
3 years after the previous adjudication, excluding time
4 spent in custody; or

5 (12) When a defendant commits an offense involving the
6 illegal manufacture of a controlled substance under
7 Section 401 of the Illinois Controlled Substances Act, the
8 illegal manufacture of methamphetamine under Section 25 of
9 the Methamphetamine Control and Community Protection Act,
10 or the illegal possession of explosives and an emergency
11 response officer in the performance of his or her duties is
12 killed or injured at the scene of the offense while
13 responding to the emergency caused by the commission of the
14 offense. In this paragraph (12), "emergency" means a
15 situation in which a person's life, health, or safety is in
16 jeopardy; and "emergency response officer" means a peace
17 officer, community policing volunteer, fireman, emergency
18 medical technician-ambulance, emergency medical
19 technician-intermediate, emergency medical
20 technician-paramedic, ambulance driver, other medical
21 assistance or first aid personnel, or hospital emergency
22 room personnel.

23 (b-1) For the purposes of this Section, "organized gang"
24 has the meaning ascribed to it in Section 10 of the Illinois
25 Streetgang Terrorism Omnibus Prevention Act.

26 (c) The court may impose an extended term sentence under
27 Section 5-8-2 upon any offender who was convicted of aggravated
28 criminal sexual assault or predatory criminal sexual assault of
29 a child under subsection (a)(1) of Section 12-14.1 of the
30 Criminal Code of 1961 where the victim was under 18 years of
31 age at the time of the commission of the offense.

32 (d) The court may impose an extended term sentence under
33 Section 5-8-2 upon any offender who was convicted of unlawful
34 use of weapons under Section 24-1 of the Criminal Code of 1961
35 for possessing a weapon that is not readily distinguishable as
36 one of the weapons enumerated in Section 24-1 of the Criminal

1 Code of 1961.

2 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,
3 eff. 9-11-05; revised 8-19-05.)

4 ARTICLE 99. EFFECTIVE DATE

5 Section 99-99. Effective date. This Act takes effect upon
6 becoming law.