



Sen. Heather Steans

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LRB096 15140 DRJ 41417 a

1 AMENDMENT TO HOUSE BILL 5255

2 AMENDMENT NO. _____. Amend House Bill 5255, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Act on Aging is amended by
6 changing Section 4.04 as follows:

7 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

8 Sec. 4.04. Long Term Care Ombudsman Program.

9 (a) Long Term Care Ombudsman Program. The Department shall
10 establish a Long Term Care Ombudsman Program, through the
11 Office of State Long Term Care Ombudsman ("the Office"), in
12 accordance with the provisions of the Older Americans Act of
13 1965, as now or hereafter amended.

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

16 (1) "Access" has the same meaning as in Section 1-104

1 of the Nursing Home Care Act, as now or hereafter amended;
2 that is, it means the right to:

3 (i) Enter any long term care facility or assisted
4 living or shared housing establishment or supportive
5 living facility;

6 (ii) Communicate privately and without restriction
7 with any resident, regardless of age, who consents to
8 the communication;

9 (iii) Seek consent to communicate privately and
10 without restriction with any resident, regardless of
11 age;

12 (iv) Inspect the clinical and other records of a
13 resident, regardless of age, with the express written
14 consent of the resident;

15 (v) Observe all areas of the long term care
16 facility or supportive living facilities, assisted
17 living or shared housing establishment except the
18 living area of any resident who protests the
19 observation.

20 (2) "Long Term Care Facility" means (i) any facility as
21 defined by Section 1-113 of the Nursing Home Care Act, as
22 now or hereafter amended; and (ii) any skilled nursing
23 facility or a nursing facility which meets the requirements
24 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
25 (b), (c), and (d) of the Social Security Act, as now or
26 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d))

1 and 42 U.S.C. 1396r(a), (b), (c), and (d)).

2 (2.5) "Assisted living establishment" and "shared
3 housing establishment" have the meanings given those terms
4 in Section 10 of the Assisted Living and Shared Housing
5 Act.

6 (2.7) "Supportive living facility" means a facility
7 established under Section 5-5.01a of the Illinois Public
8 Aid Code.

9 (3) "State Long Term Care Ombudsman" means any person
10 employed by the Department to fulfill the requirements of
11 the Office of State Long Term Care Ombudsman as required
12 under the Older Americans Act of 1965, as now or hereafter
13 amended, and Departmental policy.

14 (3.1) "Ombudsman" means any designated representative
15 of a regional long term care ombudsman program; provided
16 that the representative, whether he is paid for or
17 volunteers his ombudsman services, shall be qualified and
18 designated by the Office to perform the duties of an
19 ombudsman as specified by the Department in rules and in
20 accordance with the provisions of the Older Americans Act
21 of 1965, as now or hereafter amended.

22 (c) Ombudsman; rules. The Office of State Long Term Care
23 Ombudsman shall be composed of at least one full-time ombudsman
24 and shall include a system of designated regional long term
25 care ombudsman programs. Each regional program shall be
26 designated by the State Long Term Care Ombudsman as a

1 subdivision of the Office and any representative of a regional
2 program shall be treated as a representative of the Office.

3 The Department, in consultation with the Office, shall
4 promulgate administrative rules in accordance with the
5 provisions of the Older Americans Act of 1965, as now or
6 hereafter amended, to establish the responsibilities of the
7 Department and the Office of State Long Term Care Ombudsman and
8 the designated regional Ombudsman programs. The administrative
9 rules shall include the responsibility of the Office and
10 designated regional programs to investigate and resolve
11 complaints made by or on behalf of residents of long term care
12 facilities, supportive living facilities, and assisted living
13 and shared housing establishments, including the option to
14 serve residents under the age of 60, relating to actions,
15 inaction, or decisions of providers, or their representatives,
16 of long term care facilities, of supported living facilities,
17 of assisted living and shared housing establishments, of public
18 agencies, or of social services agencies, which may adversely
19 affect the health, safety, welfare, or rights of such
20 residents. The Office and designated regional programs may
21 represent all residents, but are not required by this Act to
22 represent persons under 60 years of age, except to the extent
23 required by federal law. When necessary and appropriate,
24 representatives of the Office shall refer complaints to the
25 appropriate regulatory State agency. The Department, in
26 consultation with the Office, shall cooperate with the

1 Department of Human Services and other State agencies in
2 providing information and training to designated regional long
3 term care ombudsman programs about the appropriate assessment
4 and treatment (including information about appropriate
5 supportive services, treatment options, and assessment of
6 rehabilitation potential) of the residents they serve,
7 including children, persons with mental illness (other than
8 Alzheimer's disease and related disorders), and persons with
9 developmental disabilities.

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

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

22 (1) In collaboration with the Attorney General, create
23 a Consumer Choice Information Report form to be completed
24 by all licensed long term care facilities to aid
25 Illinoisans and their families in making informed choices
26 about long term care. The Office shall create a Consumer

1 Choice Information Report for each type of licensed long
2 term care facility.

3 (2) Develop a database of Consumer Choice Information
4 Reports completed by licensed long term care facilities
5 that includes information in the following consumer
6 categories:

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

8 (B) Special Services and Amenities.

9 (C) Staffing.

10 (D) Facility Statistics and Resident Demographics.

11 (E) Ownership and Administration.

12 (F) Safety and Security.

13 (G) Meals and Nutrition.

14 (H) Rooms, Furnishings, and Equipment.

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

16 (3) Make this information accessible to the public,
17 including on the Internet by means of a hyperlink labeled
18 "Resident's Right to Know" on the Office's World Wide Web
19 home page.

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

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

24 (d) Access and visitation rights.

25 (6) Include in the Office's Consumer Choice
26 Information Report for each type of licensed long term care

1 facility additional information on each licensed long term
2 care facility in the State of Illinois, including
3 information regarding each facility's compliance with the
4 relevant State and federal statutes, rules, and standards;
5 customer satisfaction surveys; and information generated
6 from quality measures developed by the Centers for Medicare
7 and Medicaid Services.

8 (1) In accordance with subparagraphs (A) and (E) of
9 paragraph (3) of subsection (c) of Section 1819 and
10 subparagraphs (A) and (E) of paragraph (3) of subsection
11 (c) of Section 1919 of the Social Security Act, as now or
12 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
13 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
14 Older Americans Act of 1965, as now or hereafter amended
15 (42 U.S.C. 3058f), a long term care facility, supportive
16 living facility, assisted living establishment, and shared
17 housing establishment must:

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

20 (ii) permit representatives of the Office, with
21 the permission of the resident's legal representative
22 or legal guardian, to examine a resident's clinical and
23 other records, regardless of the age of the resident,
24 and if a resident is unable to consent to such review,
25 and has no legal guardian, permit representatives of
26 the Office appropriate access, as defined by the

1 Department, in consultation with the Office, in
2 administrative rules, to the resident's records.

3 (2) Each long term care facility, supportive living
4 facility, assisted living establishment, and shared
5 housing establishment shall display, in multiple,
6 conspicuous public places within the facility accessible
7 to both visitors and residents and in an easily readable
8 format, the address and phone number of the Office of the
9 Long Term Care Ombudsman, in a manner prescribed by the
10 Office.

11 (e) Immunity. An ombudsman or any representative of the
12 Office participating in the good faith performance of his or
13 her official duties shall have immunity from any liability
14 (civil, criminal or otherwise) in any proceedings (civil,
15 criminal or otherwise) brought as a consequence of the
16 performance of his official duties.

17 (f) Business offenses.

18 (1) No person shall:

19 (i) Intentionally prevent, interfere with, or
20 attempt to impede in any way any representative of the
21 Office in the performance of his official duties under
22 this Act and the Older Americans Act of 1965; or

23 (ii) Intentionally retaliate, discriminate
24 against, or effect reprisals against any long term care
25 facility resident or employee for contacting or
26 providing information to any representative of the

1 Office.

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

4 (3) The Director of Aging, in consultation with the
5 Office, shall notify the State's Attorney of the county in
6 which the long term care facility, supportive living
7 facility, or assisted living or shared housing
8 establishment is located, or the Attorney General, of any
9 violations of this Section.

10 (g) Confidentiality of records and identities. The
11 Department shall establish procedures for the disclosure by the
12 State Ombudsman or the regional ombudsmen entities of files
13 maintained by the program. The procedures shall provide that
14 the files and records may be disclosed only at the discretion
15 of the State Long Term Care Ombudsman or the person designated
16 by the State Ombudsman to disclose the files and records, and
17 the procedures shall prohibit the disclosure of the identity of
18 any complainant, resident, witness, or employee of a long term
19 care provider unless:

20 (1) the complainant, resident, witness, or employee of
21 a long term care provider or his or her legal
22 representative consents to the disclosure and the consent
23 is in writing;

24 (2) the complainant, resident, witness, or employee of
25 a long term care provider gives consent orally; and the
26 consent is documented contemporaneously in writing in

1 accordance with such requirements as the Department shall
2 establish; or

3 (3) the disclosure is required by court order.

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

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

18 (j) The Long Term Care Ombudsman Fund is created as a
19 special fund in the State treasury to receive moneys for the
20 express purposes of this Section. All interest earned on moneys
21 in the fund shall be credited to the fund. Moneys contained in
22 the fund shall be used to support the purposes of this Section.

23 (Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09;
24 96-328, eff. 8-11-09; 96-758, eff. 8-25-09.)

25 Section 10. The Department of Public Health Powers and

1 Duties Law of the Civil Administrative Code of Illinois is
2 amended by changing Section 2310-130 as follows:

3 (20 ILCS 2310/2310-130) (was 20 ILCS 2310/55.82)

4 Sec. 2310-130. Medicare or Medicaid certification fee;
5 Health Care Facility and Program Survey Fund. To establish and
6 charge a fee to any facility or program applying to be
7 certified to participate in the Medicare program under Title
8 XVIII of the federal Social Security Act or in the Medicaid
9 program under Title XIX of the federal Social Security Act to
10 cover the costs associated with the application, inspection,
11 and survey of the facility or program and processing of the
12 application. The Department shall establish the fee by rule,
13 and the fee shall be based only on those application,
14 inspection, and survey and processing costs not reimbursed to
15 the State by the federal government. The fee shall be paid by
16 the facility or program before the application is processed.

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

24 Beginning July 1, 2011, the Department shall employ a
25 minimum of one surveyor for every 500 licensed long term care

1 beds. Beginning July 1, 2012, the Department shall employ a
2 minimum of one surveyor for every 400 licensed long term care
3 beds. Beginning July 1, 2013, the Department shall employ a
4 minimum of one surveyor for every 300 licensed long term care
5 beds.

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

7 Section 15. The Criminal Identification Act is amended by
8 adding Section 7.5 as follows:

9 (20 ILCS 2630/7.5 new)

10 Sec. 7.5. Notification of outstanding warrant. If the
11 existence of an outstanding arrest warrant is identified by the
12 Department of State Police in connection with the criminal
13 history background checks conducted pursuant to subsection (b)
14 of Section 2-201.5 of the Nursing Home Care Act or subsection
15 (d) of Section 6.09 of the Hospital Licensing Act, the
16 Department shall notify the jurisdiction issuing the warrant of
17 the following:

18 (1) Existence of the warrant.

19 (2) The name, address, and telephone number of the
20 licensed long term care facility in which the wanted person
21 resides.

22 Local issuing jurisdictions shall be aware that nursing
23 facilities have residents who may be fragile or vulnerable or
24 who may have a mental illness. When serving a warrant, law

1 enforcement shall make every attempt to mitigate the adverse
2 impact on other facility residents.

3 Section 20. The Illinois Health Facilities Planning Act is
4 amended by changing Section 14.1 as follows:

5 (20 ILCS 3960/14.1)

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

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

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

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

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

16 (2) The establishment, construction, or modification
17 of a health care facility without a permit or in violation
18 of the terms of a permit.

19 (3) The violation of any provision of this Act or any
20 rule adopted under this Act.

21 (4) The failure, by any person subject to this Act, to
22 provide information requested by the State Board or Agency
23 within 30 days after a formal written request for the
24 information.

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

3 (a-5) For facilities licensed under the Nursing Home Care
4 Act, no permit shall be denied on the basis of prior operator
5 history, other than for: (i) actions specified under item (2),
6 (3), (4), ~~or~~ (5), or (6) of Section 3-117 of the Nursing Home
7 Care Act; (ii) actions specified under item (a) (6) of Section
8 3-119 of the Nursing Home Care Act; or (iii) actions within the
9 preceding 5 years constituting a substantial and repeated
10 failure to comply with the Nursing Home Care Act or the rules
11 and regulations adopted by the Department under that Act. The
12 State Board shall not deny a permit on account of any action
13 described in item (i), (ii), or (iii) of this subsection
14 without also considering all such actions in the light of all
15 relevant information available to the State Board, including
16 whether the permit is sought to substantially comply with a
17 mandatory or voluntary plan of correction associated with any
18 action described in item (i), (ii), or (iii) of this
19 subsection.

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

21 (1) A permit holder who fails to comply with the
22 requirements of maintaining a valid permit shall be fined
23 an amount not to exceed 1% of the approved permit amount
24 plus an additional 1% of the approved permit amount for
25 each 30-day period, or fraction thereof, that the violation
26 continues.

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

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

17 (4) A person who constructs, modifies, or establishes a
18 health care facility without first obtaining a permit shall
19 be fined an amount not to exceed \$25,000 plus an additional
20 \$25,000 for each 30-day period, or fraction thereof, that
21 the violation continues.

22 (5) A person who discontinues a health care facility or
23 a category of service without first obtaining a permit
24 shall be fined an amount not to exceed \$10,000 plus an
25 additional \$10,000 for each 30-day period, or fraction
26 thereof, that the violation continues. For purposes of this

1 subparagraph (5), facilities licensed under the Nursing
2 Home Care Act, with the exceptions of facilities operated
3 by a county or Illinois Veterans Homes, are exempt from
4 this permit requirement. However, facilities licensed
5 under the Nursing Home Care Act must comply with Section
6 3-423 of that Act and must provide the Board with 30-days'
7 written notice of its intent to close.

8 (6) A person subject to this Act who fails to provide
9 information requested by the State Board or Agency within
10 30 days of a formal written request shall be fined an
11 amount not to exceed \$1,000 plus an additional \$1,000 for
12 each 30-day period, or fraction thereof, that the
13 information is not received by the State Board or Agency.

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

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

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

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

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

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

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

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

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

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

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

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

20 (a-5) For facilities licensed under ~~the Nursing Home Care~~
21 ~~Act or~~ the MR/DD Community Care Act, no permit shall be denied
22 on the basis of prior operator history, other than for actions
23 specified ~~under item (2), (4), or (5) of Section 3-117 of the~~
24 ~~Nursing Home Care Act or~~ under item (2), (4), or (5) of Section
25 3-117 of the MR/DD Community Care Act. For facilities licensed
26 under the Nursing Home Care Act, no permit shall be denied on

1 the basis of prior operator history, other than for: (i)
2 actions specified under item (2), (3), (4), (5), or (6) of
3 Section 3-117 of the Nursing Home Care Act; (ii) actions
4 specified under item (a)(6) of Section 3-119 of the Nursing
5 Home Care Act; or (iii) actions within the preceding 5 years
6 constituting a substantial and repeated failure to comply with
7 the Nursing Home Care Act or the rules and regulations adopted
8 by the Department under that Act. The State Board shall not
9 deny a permit on account of any action described in this
10 subsection (a-5) without also considering all such actions in
11 the light of all relevant information available to the State
12 Board, including whether the permit is sought to substantially
13 comply with a mandatory or voluntary plan of correction
14 associated with any action described in this subsection (a-5).

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

16 (1) A permit holder who fails to comply with the
17 requirements of maintaining a valid permit shall be fined
18 an amount not to exceed 1% of the approved permit amount
19 plus an additional 1% of the approved permit amount for
20 each 30-day period, or fraction thereof, that the violation
21 continues.

22 (2) A permit holder who alters the scope of an approved
23 project or whose project costs exceed the allowable permit
24 amount without first obtaining approval from the State
25 Board shall be fined an amount not to exceed the sum of (i)
26 the lesser of \$25,000 or 2% of the approved permit amount

1 and (ii) in those cases where the approved permit amount is
2 exceeded by more than \$1,000,000, an additional \$20,000 for
3 each \$1,000,000, or fraction thereof, in excess of the
4 approved permit amount.

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

12 (4) A person who constructs, modifies, or establishes a
13 health care facility without first obtaining a permit shall
14 be fined an amount not to exceed \$25,000 plus an additional
15 \$25,000 for each 30-day period, or fraction thereof, that
16 the violation continues.

17 (5) A person who discontinues a health care facility or
18 a category of service without first obtaining a permit
19 shall be fined an amount not to exceed \$10,000 plus an
20 additional \$10,000 for each 30-day period, or fraction
21 thereof, that the violation continues. For purposes of this
22 subparagraph (5), facilities licensed under the Nursing
23 Home Care Act or the MR/DD Community Care Act, with the
24 exceptions of facilities operated by a county or Illinois
25 Veterans Homes, are exempt from this permit requirement.
26 However, facilities licensed under the Nursing Home Care

1 Act or the MR/DD Community Care Act must comply with
2 Section 3-423 of the Nursing Home Care Act or Section 3-423
3 of the MR/DD Community Care Act and must provide the Board
4 with 30-days' written notice of its intent to close.

5 (6) A person subject to this Act who fails to provide
6 information requested by the State Board or Agency within
7 30 days of a formal written request shall be fined an
8 amount not to exceed \$1,000 plus an additional \$1,000 for
9 each 30-day period, or fraction thereof, that the
10 information is not received by the State Board or Agency.

11 (c) Before imposing any fine authorized under this Section,
12 the State Board shall afford the person or permit holder, as
13 the case may be, an appearance before the State Board and an
14 opportunity for a hearing before a hearing officer appointed by
15 the State Board. The hearing shall be conducted in accordance
16 with Section 10.

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

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

21 Section 22. The State Finance Act is amended by changing
22 Section 5.589 as follows:

23 (30 ILCS 105/5.589)

24 Sec. 5.589. The Equity ~~Innovations~~ in Long-term Care

1 Quality ~~Demonstration Grants~~ Fund.

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

3 Section 23. The Innovations in Long-term Care Quality
4 Grants Act is amended by changing the title of the Act and
5 Sections 1, 5, 10, 15, and 20 as follows:

6 (30 ILCS 772/Act title)

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

9 (30 ILCS 772/1)

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

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

13 (30 ILCS 772/5)

14 Sec. 5. Grant program. The Director of Public Health shall
15 establish a long-term care grant program that brings
16 ~~demonstrates~~ the best practices and innovation in ~~for~~ long-term
17 care and services to residents of facilities licensed under the
18 Nursing Home Care Act, and facilities that are in receivership,
19 that are in areas the Director has determined are without
20 access to high-quality nursing home care service, delivery, and
21 housing. The grants must fund programs that demonstrate
22 creativity in service provision through the scope of their

1 ~~program or service.~~

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

3 (30 ILCS 772/10)

4 Sec. 10. Eligibility for grant. Initial grants may be made
5 only to assist residents of facilities licensed under the
6 Nursing Home Care Act that are in areas the Director has
7 determined are without access to high-quality nursing home care
8 and either:

9 (1) (A) are in receivership, are under the control of a
10 temporary manager, or are being assisted by an independent
11 consultant; and (B) have a receiver, temporary manager, or
12 independent consultant who (i) has demonstrated experience
13 in initiating or continuing best practices and innovation
14 in nursing home care and services and (ii) has a commitment
15 of long-term cooperation and assistance from facilities
16 licensed under the Nursing Home Care Act that have a
17 history of providing high-quality nursing home care and
18 services that reflect best practices and innovation; or

19 (2) within the preceding 2 years, were acquired or
20 opened by an owner who has demonstrated experience in
21 initiating or continuing best practices and innovation in
22 nursing home care and services and has a commitment of
23 long-term cooperation and assistance from facilities
24 licensed under the Nursing Home Care Act that have a
25 history of providing high-quality nursing home care and

1 services that reflect best practices and innovation.

2 The grant must be used to bring, or assist in bringing,
3 high-quality nursing home care to the residents of the facility
4 within a realistic time frame. Grants may be for more than one
5 year.

6 A grant application submitted by a receiver and initially
7 given to a receiver may subsequently be given to a new owner of
8 the facility, if the owner:

9 (1) Agrees to comply with the requirements of the
10 original grant and with the plan submitted by the receiver
11 for continuing and increasing adherence to best practices
12 in providing high-quality nursing home care, or submits
13 another realistic plan that would achieve the same end as
14 the receiver's plan.

15 (2) Has demonstrated experience in initiating or
16 continuing best practices and innovation in nursing home
17 care and services, and has a commitment of long-term
18 cooperation and assistance (to be provided without
19 compensation) from facilities licensed under the Nursing
20 Home Care Act that have a history of providing high-quality
21 nursing home care and services that reflect best practices
22 and innovation. Grants may only be made to facilities
23 licensed under the Nursing Home Care Act. Grants may only
24 be made for projects that show innovations and measurable
25 improvement in resident care, quality of life, use of
26 technology, or customer satisfaction.

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

2 (30 ILCS 772/15)

3 Sec. 15. Equity Innovations in Long-term Care Quality
4 ~~Demonstration Grants~~ Fund.

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

15 (b) The Department may use no more than 10% of the moneys
16 deposited into the Fund in any year to administer the program
17 established by the Fund and to implement the requirements of
18 the Nursing Home Care Act with respect to distressed
19 facilities.

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

21 (30 ILCS 772/20)

22 Sec. 20. Award of grants.

23 (a) Applications for grants must be made in a manner ~~on~~
24 ~~forms~~ prescribed by the Director of Public Health by rule.

1 Expenditures made in a manner with any grant, and the results
2 therefrom, shall be included (if applicable) in the reports
3 filed by the receiver with the court and shall be reported to
4 the Department in a manner prescribed by rule and by the
5 contract entered into by the grant recipient with the
6 Department. An applicant for a grant shall submit to the
7 Department, and (if applicable) to the court, a specific plan
8 for continuing and increasing adherence to best practices in
9 providing high-quality nursing home care once the grant has
10 ended.

11 (b) The applications must be reviewed,~~ranked,~~ and
12 recommended by a commission composed of 5 representatives
13 chosen from recommendations made by organizations representing
14 long-term care facilities in Illinois, a citizen member from
15 AARP, one representative from an ~~a disabled~~ advocacy
16 organization for persons with disabilities, one representative
17 from the statewide ombudsman organization, one representative
18 from academia, one representative from a nursing home
19 residents' advocacy organization, one representative from an
20 organization with expertise in improving the access of persons
21 in medically underserved areas to high-quality medical care, at
22 least 2 experts in accounting or finance, the Director of
23 Public Health, the Director of Aging, and one representative
24 selected by the leader of each legislative caucus. With the
25 exception of legislative members, members shall be appointed by
26 the Director of Public Health. ~~The commission shall perform its~~

1 ~~duties under this subsection (b) in consultation with the~~
2 ~~medical school located at the Champaign-Urbana campus of the~~
3 ~~University of Illinois.~~

4 ~~(c) The commission shall rank applications according to the~~
5 ~~following criteria:~~

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

7 ~~(2) increased efficiency through the use of~~
8 ~~technology;~~

9 ~~(3) improved quality of care through the use of~~
10 ~~technology;~~

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

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

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

14 and

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

16 (c) ~~(d)~~ The Director shall award grants based on the
17 recommendations of the commission and after a thorough review
18 of the compliance history of the applicants ~~long term care~~
19 ~~facility.~~

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

21 Section 25. The Nursing Home Care Act is amended by
22 changing Sections 1-114.01, 1-117, 1-122, 1-129, 1-130, 2-104,
23 2-106.1, 2-201.5, 2-201.6, 2-205, 3-103, 3-113, 3-117, 3-119,
24 3-206, 3-206.01, 3-206.02, 3-212, 3-303, 3-303.2, 3-304.1,
25 3-305, 3-306, 3-309, 3-310, 3-318, 3-402, 3-501, and 3-504 and

1 by adding Sections 1-114.005, 1-120.3, 1-120.7, 1-128.5,
2 1-132, 2-104.3, 2-114, 2-201.7, 3-120, 3-202.05, 3-202.2a,
3 3-202.2b, 3-304.2, 3-808, 3-809, and 3-810 as follows:

4 (210 ILCS 45/1-114.005 new)

5 Sec. 1-114.005. High risk designation. "High risk
6 designation" means a violation of a provision of the Illinois
7 Administrative Code that has been identified by the Department
8 through rulemaking to be inherently necessary to protect the
9 health, safety, and welfare of a resident.

10 (210 ILCS 45/1-114.01)

11 Sec. 1-114.01. Identified offender. "Identified offender"
12 means a person who meets any of the following criteria:

13 (1) Has been convicted of, found guilty of, adjudicated
14 delinquent for, found not guilty by reason of insanity for,
15 or found unfit to stand trial for, any felony offense
16 listed in Section 25 of the Health Care Worker Background
17 Check Act, except for the following: (i) a felony offense
18 described in Section 10-5 of the Nurse Practice Act; (ii) a
19 felony offense described in Section 4, 5, 6, 8, or 17.02 of
20 the Illinois Credit Card and Debit Card Act; (iii) a felony
21 offense described in Section 5, 5.1, 5.2, 7, or 9 of the
22 Cannabis Control Act; (iv) a felony offense described in
23 Section 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the
24 Illinois Controlled Substances Act; and (v) a felony

1 offense described in the Methamphetamine Control and
2 Community Protection Act.

3 (2) Has been convicted of, adjudicated delinquent for,
4 found not guilty by reason of insanity for, or found unfit
5 to stand trial for, any sex offense as defined in
6 subsection (c) of Section 10 of the Sex Offender Management
7 Board Act.

8 (3) Is any other resident as determined by the
9 Department of State Police. ~~who has been convicted of any~~
10 ~~felony offense listed in Section 25 of the Health Care~~
11 ~~Worker Background Check Act, is a registered sex offender,~~
12 ~~or is serving a term of parole, mandatory supervised~~
13 ~~release, or probation for a felony offense.~~

14 (Source: P.A. 94-163, eff. 7-11-05.)

15 (210 ILCS 45/1-117) (from Ch. 111 1/2, par. 4151-117)

16 Sec. 1-117. Neglect. "Neglect" means a facility's failure
17 ~~in a facility~~ to provide, or willful withholding of, adequate
18 medical care, mental health treatment, psychiatric
19 rehabilitation, personal care, or assistance with activities
20 of daily living that is necessary to avoid physical harm,
21 mental anguish, or mental illness of a resident ~~adequate~~
22 ~~medical or personal care or maintenance, which failure results~~
23 ~~in physical or mental injury to a resident or in the~~
24 ~~deterioration of a resident's physical or mental condition.~~

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

1 (210 ILCS 45/1-120.3 new)

2 Sec. 1-120.3. Provisional admission period. "Provisional
3 admission period" means the time between the admission of an
4 identified offender as defined in Section 1-114.01 and 3 days
5 following the admitting facility's receipt of an Identified
6 Offender Report and Recommendation in accordance with Section
7 2-201.6.

8 (210 ILCS 45/1-120.7 new)

9 Sec. 1-120.7. Psychiatric services rehabilitation aide.
10 "Psychiatric services rehabilitation aide" means an individual
11 employed by a long-term care facility to provide, for mentally
12 ill residents, at a minimum, crisis intervention,
13 rehabilitation, and assistance with activities of daily
14 living.

15 (210 ILCS 45/1-122) (from Ch. 111 1/2, par. 4151-122)

16 Sec. 1-122. Resident. "Resident" means a person ~~residing in~~
17 ~~and~~ receiving personal or medical care, including but not
18 limited to mental health treatment, psychiatric
19 rehabilitation, physical rehabilitation, and assistance with
20 activities of daily living, ~~care~~ from a facility.

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

22 (210 ILCS 45/1-128.5 new)

1 Sec. 1-128.5. Type "AA" violation. A "Type 'AA' violation"
2 means a violation of this Act or of the rules promulgated
3 thereunder which creates a condition or occurrence relating to
4 the operation and maintenance of a facility that proximately
5 caused a resident's death.

6 (210 ILCS 45/1-129) (from Ch. 111 1/2, par. 4151-129)

7 Sec. 1-129. Type "A" violation. A "Type 'A' violation"
8 means a violation of this Act or of the rules promulgated
9 thereunder which creates a condition or occurrence relating to
10 the operation and maintenance of a facility that (i) creates
11 ~~presenting~~ a substantial probability that the risk of death or
12 serious mental or physical harm to a resident will result
13 therefrom or (ii) has resulted in actual physical or mental
14 harm to a resident.

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

16 (210 ILCS 45/1-130) (from Ch. 111 1/2, par. 4151-130)

17 Sec. 1-130. Type "B" violation. A "Type 'B' violation"
18 means a violation of this Act or of the rules promulgated
19 thereunder which creates a condition or occurrence relating to
20 the operation and maintenance of a facility that is more likely
21 than not to cause more than minimal physical or mental harm to
22 ~~directly threatening to the health, safety or welfare of a~~
23 resident.

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

1 (210 ILCS 45/1-132 new)

2 Sec. 1-132. Type "C" violation. A "Type 'C' violation"
3 means a violation of this Act or of the rules promulgated
4 thereunder which creates a condition or occurrence relating to
5 the operation and maintenance of a facility that creates a
6 substantial probability that less than minimal physical or
7 mental harm to a resident will result therefrom.

8 (210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

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

1 monitored by an institutional review board ~~committee~~ appointed
2 by the Director ~~administrator of the facility where such~~
3 ~~research and treatment is conducted~~. The membership, operating
4 procedures and review criteria for the institutional review
5 board ~~committees~~ shall be prescribed under rules and
6 regulations of the Department and shall comply with the
7 requirements for institutional review boards established by
8 the federal Food and Drug Administration. No person who has
9 received compensation in the prior 3 years from an entity that
10 manufactures, distributes, or sells pharmaceuticals,
11 biologics, or medical devices may serve on the institutional
12 review board.

13 The institutional review board may approve only research or
14 treatment that meets the standards of the federal Food and Drug
15 Administration with respect to (i) the protection of human
16 subjects and (ii) financial disclosure by clinical
17 investigators. The Office of State Long Term Care Ombudsman and
18 the State Protection and Advocacy organization shall be given
19 an opportunity to comment on any request for approval before
20 the board makes a decision. Those entities shall not be
21 provided information that would allow a potential human subject
22 to be individually identified, unless the board asks the
23 Ombudsman for help in securing information from or about the
24 resident. The board shall require frequent reporting of the
25 progress of the approved research or treatment and its impact
26 on residents, including immediate reporting of any adverse

1 impact to the resident, the resident's representative, the
2 Office of the State Long Term Care Ombudsman, and the State
3 Protection and Advocacy organization. The board may not approve
4 any retrospective study of the records of any resident about
5 the safety or efficacy of any care or treatment if the resident
6 was under the care of the proposed researcher or a business
7 associate when the care or treatment was given, unless the
8 study is under the control of a researcher without any business
9 relationship to any person or entity who could benefit from the
10 findings of the study.

11 No facility shall permit experimental research or
12 treatment to be conducted on a resident, or give access to any
13 person or person's records for a retrospective study about the
14 safety or efficacy of any care or treatment, without the prior
15 written approval of the institutional review board. No nursing
16 home administrator, or person licensed by the State to provide
17 medical care or treatment to any person, may assist or
18 participate in any experimental research on or treatment of a
19 resident, including a retrospective study, that does not have
20 the prior written approval of the board. Such conduct shall be
21 grounds for professional discipline by the Department of
22 Financial and Professional Regulation.

23 The institutional review board may exempt from ongoing
24 review research or treatment initiated on a resident before the
25 individual's admission to a facility and for which the board
26 determines there is adequate ongoing oversight by another

1 institutional review board. Nothing in this Section shall
2 prevent a facility, any facility employee, or any other person
3 from assisting or participating in any experimental research on
4 or treatment of a resident, if the research or treatment began
5 before the person's admission to a facility, until the board
6 has reviewed the research or treatment and decided to grant or
7 deny approval or to exempt the research or treatment from
8 ongoing review.

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

14 According to rules adopted by the Department, every woman
15 resident of child-bearing age shall receive routine
16 obstetrical and gynecological evaluations as well as necessary
17 prenatal care.

18 (c) Every resident shall be permitted to refuse medical
19 treatment and to know the consequences of such action, unless
20 such refusal would be harmful to the health and safety of
21 others and such harm is documented by a physician in the
22 resident's clinical record. The resident's refusal shall free
23 the facility from the obligation to provide the treatment.

24 (d) Every resident, resident's guardian, or parent if the
25 resident is a minor shall be permitted to inspect and copy all
26 his clinical and other records concerning his care and

1 maintenance kept by the facility or by his physician. The
2 facility may charge a reasonable fee for duplication of a
3 record.

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

5 (210 ILCS 45/2-104.3 new)

6 Sec. 2-104.3. Serious mental illness; rescreening.

7 (a) All persons admitted to a nursing home facility with a
8 diagnosis of serious mental illness who remain in the facility
9 for a period of 90 days shall be re-screened by the Department
10 of Human Services or its designee at the end of the 90-day
11 period, at 6 months, and annually thereafter to assess their
12 continuing need for nursing facility care and shall be advised
13 of all other available care options.

14 (b) The Department of Human Services, by rule, shall
15 provide for a prohibition on conflicts of interest for
16 pre-admission screeners. The rule shall provide for waiver of
17 those conflicts by the Department of Human Services if the
18 Department of Human Services determines that a scarcity of
19 qualified pre-admission screeners exists in a given community
20 and that, absent a waiver of conflict, an insufficient number
21 of pre-admission screeners would be available. If a conflict is
22 waived, the pre-admission screener shall disclose the conflict
23 of interest to the screened individual in the manner provided
24 for by rule of the Department of Human Services. For the
25 purposes of this subsection, a "conflict of interest" includes,

1 but is not limited to, the existence of a professional or
2 financial relationship between (i) a PAS-MH corporate or a
3 PAS-MH agent performing the rescreening and (ii) a community
4 provider or long-term care facility.

5 (210 ILCS 45/2-106.1)

6 Sec. 2-106.1. Drug treatment.

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

18 (b) Psychotropic medication shall not be prescribed
19 without the informed consent of the resident, the resident's
20 guardian, or other authorized representative. "Psychotropic
21 medication" means medication that is used for or listed as used
22 for antipsychotic, antidepressant, antimanic, or antianxiety
23 behavior modification or behavior management purposes in the
24 latest editions of the AMA Drug Evaluations or the Physician's
25 Desk Reference. The Department shall adopt, by rule, a protocol

1 specifying how informed consent for psychotropic medication
2 may be obtained or refused. The protocol shall require, at a
3 minimum, a discussion between (i) the resident or the
4 resident's authorized representative and (ii) the resident's
5 physician, a registered pharmacist (who is not a dispensing
6 pharmacist for the facility where the resident lives), or a
7 licensed nurse about the possible risks and benefits of a
8 recommended medication and the use of standardized consent
9 forms designated by the Department. Each form developed by the
10 Department (i) shall be written in plain language, (ii) shall
11 be able to be downloaded from the Department's official
12 website, (iii) shall include information specific to the
13 psychotropic medication for which consent is being sought, and
14 (iv) shall be used for every resident for whom psychotropic
15 drugs are prescribed. In addition to creating those forms, the
16 Department shall approve the use of any other informed consent
17 forms that meet criteria developed by the Department.

18 In addition to any other penalty prescribed by law, a
19 facility that is found to have violated this subsection, or the
20 federal certification requirement that informed consent be
21 obtained before administering a psychotropic medication, shall
22 thereafter be required to obtain the signatures of 2 licensed
23 health care professionals on every form purporting to give
24 informed consent for the administration of a psychotropic
25 medication, certifying the personal knowledge of each health
26 care professional that the consent was obtained in compliance

1 with the requirements of this subsection.

2 (c) The requirements of this Section are intended to
3 control in a conflict with the requirements of Sections 2-102
4 and 2-107.2 of the Mental Health and Developmental Disabilities
5 Code with respect to the administration of psychotropic
6 medication.

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

8 (210 ILCS 45/2-114 new)

9 Sec. 2-114. Unlawful discrimination. No resident shall be
10 subjected to unlawful discrimination as defined in Section
11 1-103 of the Illinois Human Rights Act by any owner, licensee,
12 administrator, employee, or agent of a facility. Unlawful
13 discrimination does not include an action by any owner,
14 licensee, administrator, employee, or agent of a facility that
15 is required by this Act or rules adopted under this Act.

16 (210 ILCS 45/2-201.5)

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

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

1 must be screened prior to receiving those benefits. Screening
2 for nursing facility services shall be administered through
3 procedures established by administrative rule. Screening may
4 be done by agencies other than the Department as established by
5 administrative rule. This Section applies on and after July 1,
6 1996. No later than October 1, 2010, the Department of
7 Healthcare and Family Services, in collaboration with the
8 Department on Aging, the Department of Human Services, and the
9 Department of Public Health, shall file administrative rules
10 providing for the gathering, during the screening process, of
11 information relevant to determining each person's potential
12 for placing other residents, employees, and visitors at risk of
13 harm.

14 (a-1) Any screening performed pursuant to subsection (a) of
15 this Section shall include a determination of whether any
16 person is being considered for admission to a nursing facility
17 due to a need for mental health services. For a person who
18 needs mental health services, the screening shall also include
19 an evaluation of whether there is permanent supportive housing,
20 or an array of community mental health services, including but
21 not limited to supported housing, assertive community
22 treatment, and peer support services, that would enable the
23 person to live in the community. The person shall be told about
24 the existence of any such services that would enable the person
25 to live safely and humanely and about available appropriate
26 nursing home services that would enable the person to live

1 safely and humanely, and the person shall be given the
2 assistance necessary to avail himself or herself of any
3 available services.

4 (a-2) Pre-screening for persons with a serious mental
5 illness shall be performed by a psychiatrist, a psychologist, a
6 registered nurse certified in psychiatric nursing, a licensed
7 clinical professional counselor, or a licensed clinical social
8 worker, who is competent to (i) perform a clinical assessment
9 of the individual, (ii) certify a diagnosis, (iii) make a
10 determination about the individual's current need for
11 treatment, including substance abuse treatment, and recommend
12 specific treatment, and (iv) determine whether a facility or a
13 community-based program is able to meet the needs of the
14 individual.

15 For any person entering a nursing facility, the
16 pre-screening agent shall make specific recommendations about
17 what care and services the individual needs to receive,
18 beginning at admission, to attain or maintain the individual's
19 highest level of independent functioning and to live in the
20 most integrated setting appropriate for his or her physical and
21 personal care and developmental and mental health needs. These
22 recommendations shall be revised as appropriate by the
23 pre-screening or re-screening agent based on the results of
24 resident review and in response to changes in the resident's
25 wishes, needs, and interest in transition.

26 Upon the person entering the nursing facility, the

1 Department of Human Services or its designee shall assist the
2 person in establishing a relationship with a community mental
3 health agency or other appropriate agencies in order to (i)
4 promote the person's transition to independent living and (ii)
5 support the person's progress in meeting individual goals.

6 (a-3) The Department of Human Services, by rule, shall
7 provide for a prohibition on conflicts of interest for
8 pre-admission screeners. The rule shall provide for waiver of
9 those conflicts by the Department of Human Services if the
10 Department of Human Services determines that a scarcity of
11 qualified pre-admission screeners exists in a given community
12 and that, absent a waiver of conflicts, an insufficient number
13 of pre-admission screeners would be available. If a conflict is
14 waived, the pre-admission screener shall disclose the conflict
15 of interest to the screened individual in the manner provided
16 for by rule of the Department of Human Services. For the
17 purposes of this subsection, a "conflict of interest" includes,
18 but is not limited to, the existence of a professional or
19 financial relationship between (i) a PAS-MH corporate or a
20 PAS-MH agent and (ii) a community provider or long-term care
21 facility.

22 (b) In addition to the screening required by subsection
23 (a), a facility, except for those licensed as long term care
24 for under age 22 facilities, shall, within 24 hours after
25 admission, request a criminal history background check
26 pursuant to the Uniform Conviction Information Act for all

1 persons age 18 or older seeking admission to the facility,
2 unless a background check was initiated by a hospital pursuant
3 to subsection (d) of Section 6.09 of the Hospital Licensing
4 Act. Background checks conducted pursuant to this Section shall
5 be based on the resident's name, date of birth, and other
6 identifiers as required by the Department of State Police. If
7 the results of the background check are inconclusive, the
8 facility shall initiate a fingerprint-based check, unless the
9 fingerprint check is waived by the Director of Public Health
10 based on verification by the facility that the resident is
11 completely immobile or that the resident meets other criteria
12 related to the resident's health or lack of potential risk
13 which may be established by Departmental rule. A waiver issued
14 pursuant to this Section shall be valid only while the resident
15 is immobile or while the criteria supporting the waiver exist.
16 The facility shall provide for or arrange for any required
17 fingerprint-based checks to be taken on the premises of the
18 facility. If a fingerprint-based check is required, the
19 facility shall arrange for it to be conducted in a manner that
20 is respectful of the resident's dignity and that minimizes any
21 emotional or physical hardship to the resident.

22 ~~A facility, except for those licensed as long term care for~~
23 ~~under age 22 facilities, shall, within 60 days after the~~
24 ~~effective date of this amendatory Act of the 94th General~~
25 ~~Assembly, request a criminal history background check pursuant~~
26 ~~to the Uniform Conviction Information Act for all persons who~~

1 ~~are residents of the facility on the effective date of this~~
2 ~~amendatory Act of the 94th General Assembly. The facility shall~~
3 ~~review the results of the criminal history background checks~~
4 ~~immediately upon receipt thereof. If the results of the~~
5 ~~background check are inconclusive, the facility shall initiate~~
6 ~~a fingerprint based check unless the fingerprint based check~~
7 ~~is waived by the Director of Public Health based on~~
8 ~~verification by the facility that the resident is completely~~
9 ~~immobile or that the resident meets other criteria related to~~
10 ~~the resident's health or lack of potential risk which may be~~
11 ~~established by Departmental rule. A waiver issued pursuant to~~
12 ~~this Section shall be valid only while the resident is immobile~~
13 ~~or while the criteria supporting the waiver exist. The facility~~
14 ~~shall provide for or arrange for any required fingerprint based~~
15 ~~checks to be taken on the premises of the facility. If a~~
16 ~~fingerprint based check is required, the facility shall~~
17 ~~arrange for it to be conducted in a manner that is respectful~~
18 ~~of the resident's dignity and that minimizes any emotional or~~
19 ~~physical hardship to the resident.~~

20 (c) If the results of a resident's criminal history
21 background check reveal that the resident is an identified
22 offender as defined in Section 1-114.01, the facility shall do
23 the following:

24 (1) Immediately notify the Department of State Police,
25 in the form and manner required by the Department of State
26 Police, in collaboration with the Department of Public

1 Health, that the resident is an identified offender.

2 (2) Within 72 hours, arrange for a fingerprint-based
3 criminal history record inquiry to be requested on the
4 identified offender resident. The inquiry shall be based on
5 the subject's name, sex, race, date of birth, fingerprint
6 images, and other identifiers required by the Department of
7 State Police. The inquiry shall be processed through the
8 files of the Department of State Police and the Federal
9 Bureau of Investigation to locate any criminal history
10 record information that may exist regarding the subject.
11 The Federal Bureau of Investigation shall furnish to the
12 Department of State Police, pursuant to an inquiry under
13 this paragraph (2), any criminal history record
14 information contained in its files.

15 The facility shall comply with all applicable provisions
16 contained in the Uniform Conviction Information Act.

17 All name-based and fingerprint-based criminal history
18 record inquires shall be submitted to the Department of State
19 Police electronically in the form and manner prescribed by the
20 Department of State Police. The Department of State Police may
21 charge the facility a fee for processing name-based and
22 fingerprint-based criminal history record inquires. The fee
23 shall be deposited into the State Police Services Fund. The fee
24 shall not exceed the actual cost of processing the inquiry. ~~the~~
25 facility shall immediately fax the resident's name and criminal
26 history information to the Illinois Department of Public

1 ~~Health, which shall conduct a Criminal History Analysis~~
2 ~~pursuant to Section 2-201.6. The Criminal History Analysis~~
3 ~~shall be conducted independently of the Illinois Department of~~
4 ~~Public Health's Office of Healthcare Regulation. The Office of~~
5 ~~Healthcare Regulation shall have no involvement with the~~
6 ~~process of reviewing or analyzing the criminal history of~~
7 ~~identified offenders.~~

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

13 (e) The Department shall develop and maintain a
14 de-identified database of residents who have injured facility
15 staff, facility visitors, or other residents, and the attendant
16 circumstances, solely for the purposes of evaluating and
17 improving resident pre-screening and assessment procedures
18 (including the Criminal History Report prepared under Section
19 2-201.6) and the adequacy of Department requirements
20 concerning the provision of care and services to residents. A
21 resident shall not be listed in the database until a Department
22 survey confirms the accuracy of the listing. The names of
23 persons listed in the database and information that would allow
24 them to be individually identified shall not be made public.
25 Neither the Department nor any other agency of State government
26 may use information in the database to take any action against

1 any individual, licensee, or other entity, unless the
2 Department or agency receives the information independent of
3 this subsection (e). All information collected, maintained, or
4 developed under the authority of this subsection (e) for the
5 purposes of the database maintained under this subsection (e)
6 shall be treated in the same manner as information that is
7 subject to Part 21 of Article VIII of the Code of Civil
8 Procedure.

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

10 (210 ILCS 45/2-201.6)

11 Sec. 2-201.6. Criminal History Report Analysis.

12 (a) The Department of State Police shall prepare
13 ~~immediately commence~~ a Criminal History Report Analysis when it
14 receives information, through the criminal history background
15 check required pursuant to subsection (d) of Section 6.09 of
16 the Hospital Licensing Act or subsection (c) ~~(b)~~ of Section
17 2-201.5, or through any other means, that a resident of a
18 facility is an identified offender.

19 (b) The Department of State Police shall complete the
20 Criminal History Report within 10 business ~~The Department shall~~
21 ~~complete the Criminal History Analysis as soon as practicable,~~
22 ~~but not later than 14~~ days after receiving information under
23 subsection (a) that a resident is an identified offender
24 ~~receiving notice from the facility under subsection (a).~~

25 (c) The Criminal History Report Analysis shall include, but

1 not be limited to, ~~all of~~ the following:

2 (1) (Blank). ~~Consultation with the identified~~
3 ~~offender's assigned parole agent or probation officer, if~~
4 ~~applicable.~~

5 (2) (Blank). ~~Consultation with the convicting~~
6 ~~prosecutor's office.~~

7 (3) (Blank). ~~A review of the statement of facts, police~~
8 ~~reports, and victim impact statements, if available.~~

9 (3.5) Copies of the identified offender's parole,
10 mandatory supervised release, or probation orders.

11 (4) An interview with the identified offender.

12 (5) (Blank). ~~Consultation with the facility~~
13 ~~administrator or facility medical director, or both,~~
14 ~~regarding the physical condition of the identified~~
15 ~~offender.~~

16 (6) A detailed summary ~~Consideration~~ of the entire
17 criminal history of the offender, including arrests,
18 convictions, and the date of the identified offender's last
19 conviction relative to the date of admission to a long-term
20 care facility.

21 (7) If the identified offender is a convicted or
22 registered sex offender, a review of any and all sex
23 offender evaluations conducted on that offender. If there
24 is no sex offender evaluation available, the Department of
25 State Police shall arrange, through the Department of
26 Public Health, ~~provide~~ for a sex offender evaluation to be

1 conducted on the identified offender. If the convicted or
2 registered sex offender is under supervision by the
3 Illinois Department of Corrections or a county probation
4 department, the sex offender evaluation shall be arranged
5 by and at the expense of the supervising agency. All
6 evaluations conducted on convicted or registered sex
7 offenders under this Act shall be conducted by sex offender
8 evaluators approved by the Sex Offender Management Board.

9 (d) The Department of State Police shall provide the
10 ~~prepare a~~ Criminal History ~~Analysis~~ Report to a licensed
11 forensic psychologist. After (i) consideration of the Criminal
12 History Report, (ii) consultation with the facility
13 administrator or the facility medical director, or both,
14 regarding the mental and physical condition of the identified
15 offender, and (iii) reviewing the facility's file on the
16 identified offender, including all incident reports, all
17 information regarding medication and medication compliance,
18 and all information regarding previous discharges or transfers
19 from other facilities, the licensed forensic psychologist
20 shall prepare an Identified Offender Report and
21 Recommendation. The Identified Offender Report and
22 Recommendation based on the analysis conducted pursuant to
23 ~~subsection (c). The Report shall include a summary of the Risk~~
24 ~~Analysis and~~ shall detail whether and to what extent the
25 identified offender's criminal history necessitates the
26 implementation of security measures within the long-term care

1 facility. If the identified offender is a convicted or
2 registered sex offender or if the Identified Offender Report
3 and Recommendation ~~Department's Criminal History Analysis~~
4 reveals that the identified offender poses a significant risk
5 of harm to others within the facility, the offender shall be
6 required to have his or her own room within the facility.

7 (e) The licensed forensic psychologist shall complete the
8 Identified Offender Report and Recommendation within 14
9 business days after receiving the Criminal History Analysis
10 Report and shall promptly provide the Identified Offender
11 Report and Recommendation to the Department of State Police,
12 which shall provide the Identified Offender Report and
13 Recommendation ~~be provided~~ to the following:

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

16 (2) The Chief of Police of the municipality in which
17 the facility is located.

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

19 (4) The Department of Public Health.

20 (e-5) The Department of Public Health shall keep a
21 continuing record of all residents determined to be identified
22 offenders as defined in Section 1-114.01 and shall report the
23 number of identified offender residents annually to the General
24 Assembly.

25 (f) The facility shall incorporate the Identified Offender
26 Report and Recommendation ~~Criminal History Analysis Report~~

1 into the identified offender's care plan created pursuant to 42
2 CFR 483.20.

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

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

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

17 (210 ILCS 45/2-201.7 new)

18 Sec. 2-201.7. Expanded criminal history background check
19 pilot program.

20 (a) The purpose of this Section is to establish a pilot
21 program based in Cook and Will counties in which an expanded
22 criminal history background check screening process will be
23 utilized to better identify residents of licensed long term
24 care facilities who, because of their criminal histories, may
25 pose a risk to other vulnerable residents.

1 (b) In this Section, "mixed population facility" means a
2 facility that has more than 25 residents with a diagnosis of
3 serious mental illness and residents 65 years of age or older.

4 (c) Every mixed population facility located in Cook County
5 or Will County shall participate in the pilot program and shall
6 employ expanded criminal history background check screening
7 procedures for all residents admitted to the facility who are
8 at least 18 years of age but less than 65 years of age. Under
9 the pilot program, criminal history background checks required
10 under this Act shall employ fingerprint-based criminal history
11 record inquiries or comparably comprehensive name-based
12 criminal history background checks. Fingerprint-based criminal
13 history record inquiries shall be conducted pursuant to
14 subsection (c-2) of Section 2-201.5. A Criminal History Report
15 and an Identified Offender Report and Recommendation shall be
16 completed pursuant to Section 2-201.6 if the results of the
17 expanded criminal history background check reveal that a
18 resident is an identified offender as defined in Section
19 1-114.01.

20 (d) If an expanded criminal history background check
21 reveals that a resident is an identified offender as defined in
22 Section 1-114.01, the facility shall be notified within 72
23 hours.

24 (e) The cost of the expanded criminal history background
25 checks conducted pursuant to the pilot program shall not exceed
26 \$50 per resident and shall be paid by the facility. The

1 Department of State Police shall implement all potential
2 measures to minimize the cost of the expanded criminal history
3 background checks to the participating long term care
4 facilities.

5 (f) The pilot program shall run for a period of one year
6 after the effective date of this amendatory Act of the 96th
7 General Assembly. Promptly after the end of that one-year
8 period, the Department shall report the results of the pilot
9 program to the General Assembly.

10 (210 ILCS 45/2-205) (from Ch. 111 1/2, par. 4152-205)

11 Sec. 2-205. The following information is subject to
12 disclosure to the public from the Department or the Department
13 of Healthcare and Family Services:

14 (1) Information submitted under Sections 3-103 and
15 3-207 except information concerning the remuneration of
16 personnel licensed, registered, or certified by the
17 Department of Professional Regulation and monthly charges
18 for an individual private resident;

19 (2) Records of license and certification inspections,
20 surveys, and evaluations of facilities, other reports of
21 inspections, surveys, and evaluations of resident care,
22 whether a facility has been designated a distressed
23 facility, and the basis for the designation, and reports
24 concerning a facility prepared pursuant to Titles XVIII and
25 XIX of the Social Security Act, subject to the provisions

1 of the Social Security Act;

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

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

15 The Department shall disclose information under this
16 Section in accordance with provisions for inspection and
17 copying of public records required by the Freedom of
18 Information Act.

19 However, the disclosure of information described in
20 subsection (1) shall not be restricted by any provision of the
21 Freedom of Information Act.

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

23 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

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

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

3 (2) All license applications shall be accompanied with
4 an application fee. The fee for an annual license shall be
5 \$1,990 ~~\$995~~. Facilities that pay a fee or assessment
6 pursuant to Article V-C of the Illinois Public Aid Code
7 shall be exempt from the license fee imposed under this
8 item (2). The fee for a 2-year license shall be double the
9 fee for the annual license set forth in the preceding
10 sentence. The fees collected shall be deposited with the
11 State Treasurer into the Long Term Care Monitor/Receiver
12 Fund, which has been created as a special fund in the State
13 treasury. This special fund is to be used by the Department
14 for expenses related to the appointment of monitors and
15 receivers as contained in Sections 3-501 through 3-517 of
16 this Act, for the enforcement of this Act, and for
17 implementation of the Abuse Prevention Review Team Act. The
18 Department may reduce or waive a penalty pursuant to
19 Section 3-308 only if that action will not threaten the
20 ability of the Department to meet the expenses required to
21 be met by the Long Term Care Monitor/Receiver Fund. At the
22 end of each fiscal year, any funds in excess of \$1,000,000
23 held in the Long Term Care Monitor/Receiver Fund shall be
24 deposited in the State's General Revenue Fund. The
25 application shall be under oath and the submission of false
26 or misleading information shall be a Class A misdemeanor.

1 The application shall contain the following information:

2 (a) The name and address of the applicant if an
3 individual, and if a firm, partnership, or
4 association, of every member thereof, and in the case
5 of a corporation, the name and address thereof and of
6 its officers and its registered agent, and in the case
7 of a unit of local government, the name and address of
8 its chief executive officer;

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

11 (c) The name of the person or persons under whose
12 management or supervision the facility will be
13 conducted;

14 (d) The number and type of residents for which
15 maintenance, personal care, or nursing is to be
16 provided; and

17 (e) Such information relating to the number,
18 experience, and training of the employees of the
19 facility, any management agreements for the operation
20 of the facility, and of the moral character of the
21 applicant and employees as the Department may deem
22 necessary.

23 (3) Each initial application shall be accompanied by a
24 financial statement setting forth the financial condition
25 of the applicant and by a statement from the unit of local
26 government having zoning jurisdiction over the facility's

1 location stating that the location of the facility is not
2 in violation of a zoning ordinance. An initial application
3 for a new facility shall be accompanied by a permit as
4 required by the "Illinois Health Facilities Planning Act".
5 After the application is approved, the applicant shall
6 advise the Department every 6 months of any changes in the
7 information originally provided in the application.

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

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

14 (210 ILCS 45/3-113) (from Ch. 111 1/2, par. 4153-113)

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

1 submitted by the receiver for continuing and increasing
2 adherence to best practices in providing high-quality nursing
3 home care, unless the grant is repaid, under conditions to be
4 determined by rule by the Department in its administration of
5 the Equity in Long-term Care Quality Act.

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

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

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

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

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

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

24 (4) Insufficient financial or other resources to
25 operate and conduct the facility in accordance with

1 standards promulgated by the Department under this Act and
2 with contractual obligations assumed by a recipient of a
3 grant under the Equity in Long-term Care Quality Act and
4 the plan (if applicable) submitted by a grantee for
5 continuing and increasing adherence to best practices in
6 providing high-quality nursing home care.

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

21 (6) That the facility is not under the direct
22 supervision of a full-time administrator, as defined by
23 regulation, who is licensed, if required, under the Nursing
24 Home Administrators Licensing and Disciplinary Act.

25 (7) That the facility is in receivership and the
26 proposed licensee has not submitted a specific detailed

1 plan to bring the facility into compliance with the
2 requirements of this Act and with federal certification
3 requirements, if the facility is certified, and to keep the
4 facility in such compliance.

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

6 (210 ILCS 45/3-119) (from Ch. 111 1/2, par. 4153-119)

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

11 (1) There has been a substantial failure to comply with
12 this Act or the rules and regulations promulgated by the
13 Department under this Act. A substantial failure by a
14 facility shall include, but not be limited to, any of the
15 following:

16 (A) termination of Medicare or Medicaid
17 certification by the Centers for Medicare and Medicaid
18 Services; or

19 (B) a failure by the facility to pay any fine
20 assessed under this Act after the Department has sent
21 to the facility at least 2 notices of assessment that
22 include a schedule of payments as determined by the
23 Department, taking into account extenuating
24 circumstances and financial hardships of the facility.

25 (2) Conviction of the licensee, or of the person

1 designated to manage or supervise the facility, of a
2 felony, or of 2 or more misdemeanors involving moral
3 turpitude, during the previous 5 years as shown by a
4 certified copy of the record of the court of conviction.

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

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

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

15 (6) The facility has committed 2 Type "AA" violations
16 within a 2-year period.

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

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

1 provided under Section 3-703.

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

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

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

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

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

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

1 (210 ILCS 45/3-120 new)

2 Sec. 3-120. Certification of behavioral management units.

3 (a) No later than January 1, 2011, the Department shall
4 file with the Joint Committee on Administrative Rules, pursuant
5 to the Illinois Administrative Procedure Act, proposed rules or
6 proposed amendments to existing rules to certify distinct
7 self-contained units within existing nursing homes for the
8 behavioral management of persons with a high risk of
9 aggression. The purpose of the certification program is to
10 ensure that the safety of residents, employees, and the public
11 is preserved.

12 (b) The Department's rules shall, at a minimum, provide for
13 the following:

14 (1) A security and safety assessment, completed before
15 admission to a certified unit if an Identified Offender
16 Report and Recommendation or other criminal risk analysis
17 has not been completed, to identify existing or potential
18 residents at risk of committing violent acts and determine
19 appropriate preventive action to be taken. The assessment
20 shall include, but need not be limited to, (i) a measure of
21 the frequency of, (ii) an identification of the
22 precipitating factors for, and (iii) the consequences of,
23 violent acts. The security and safety assessment shall be
24 in addition to any risk-of-harm assessment performed by a
25 PAS screener, but may use the results of this or any other

1 assessment. The security and safety assessment shall be
2 completed by the same licensed forensic psychologist who
3 prepares Identified Offender Reports and Recommendations
4 for identified offenders.

5 (2) Development of an individualized treatment and
6 behavior management plan for each resident to reduce
7 overall and specific risks.

8 (3) Room selection and appropriateness of roommate
9 assignment.

10 (4) Protection of residents, employees, and members of
11 the public from aggression by residents.

12 (5) Supervision and monitoring.

13 (6) Staffing levels.

14 (7) Quality assurance and improvement.

15 (8) Staff training, conducted during orientation and
16 periodically thereafter, specific to each job description
17 covering the following topics as appropriate:

18 (A) The violence escalation cycle.

19 (B) Violence predicting factors.

20 (C) Obtaining a history from a resident with a
21 history of violent behavior.

22 (D) Verbal and physical techniques to de-escalate
23 and minimize violent behavior.

24 (E) Strategies to avoid physical harm.

25 (F) Containment techniques, as permitted and
26 governed by law.

1 (G) Appropriate treatment to reduce violent
2 behavior.

3 (H) Documenting and reporting incidents of
4 violence.

5 (I) The process whereby employees affected by a
6 violent act may be debriefed or calmed down and the
7 tension of the situation may be reduced.

8 (J) Any resources available to employees for
9 coping with violence.

10 (K) Any other topic deemed appropriate based on job
11 description and the needs of this population.

12 (9) Elimination or reduction of environmental factors
13 that affect resident safety.

14 (10) Periodic independent reassessment of the
15 individual resident for appropriateness of continued
16 placement on the certified unit. For the purposes of this
17 paragraph (10), "independent" means that no professional
18 or financial relationship exists between any person making
19 the assessment and any community provider or long term care
20 facility.

21 (11) A definition of a "person with high risk of
22 aggression".

23 The Department shall develop the administrative rules
24 under this subsection (b) in collaboration with other relevant
25 State agencies and in consultation with (i) advocates for
26 residents, (ii) providers of nursing home services, and (iii)

1 labor and employee-representation organizations.

2 (c) A long term care facility found to be out of compliance
3 with the certification requirements under Section 3-120 may be
4 subject to denial, revocation, or suspension of the behavioral
5 management unit certification or the imposition of sanctions
6 and penalties, including the immediate suspension of new
7 admissions. Hearings shall be conducted pursuant to Part 7 of
8 Article III of this Act.

9 (d) The Department shall establish a certification fee
10 schedule by rule, in consultation with advocates, nursing
11 homes, and representatives of associations representing long
12 term care facilities.

13 (210 ILCS 45/3-202.05 new)

14 Sec. 3-202.05. Staffing ratios effective July 1, 2010 and
15 thereafter.

16 (a) For the purpose of computing staff to resident ratios,
17 direct care staff shall include:

- 18 (1) registered nurses;
19 (2) licensed practical nurses;
20 (3) certified nurse assistants;
21 (4) psychiatric services rehabilitation aides;
22 (5) rehabilitation and therapy aides;
23 (6) psychiatric services rehabilitation coordinators;
24 (7) assistant directors of nursing;
25 (8) 50% of the Director of Nurses' time; and

1 (9) 30% of the Social Services Directors' time.

2 The Department shall, by rule, allow certain facilities
3 subject to 77 Ill. Admin. Code 300.4000 and following (Subpart
4 S) and 300.6000 and following (Subpart T) to utilize
5 specialized clinical staff, as defined in rules, to count
6 towards the staffing ratios.

7 (b) Beginning July 1, 2011, and thereafter, light
8 intermediate care shall be staffed at the same staffing ratio
9 as intermediate care.

10 (c) Facilities shall notify the Department within 60 days
11 after the effective date of this amendatory Act of the 96th
12 General Assembly, in a form and manner prescribed by the
13 Department, of the staffing ratios in effect on the effective
14 date of this amendatory Act of the 96th General Assembly for
15 both intermediate and skilled care and the number of residents
16 receiving each level of care.

17 (d) (1) Effective July 1, 2010, for each resident needing
18 skilled care, a minimum staffing ratio of 2.5 hours of nursing
19 and personal care each day must be provided; for each resident
20 needing intermediate care, 1.7 hours of nursing and personal
21 care each day must be provided.

22 (2) Effective January 1, 2011, the minimum staffing
23 ratios shall be increased to 2.7 hours of nursing and
24 personal care each day for a resident needing skilled care
25 and 1.9 hours of nursing and personal care each day for a
26 resident needing intermediate care.

1 (3) Effective January 1, 2012, the minimum staffing
2 ratios shall be increased to 3.0 hours of nursing and
3 personal care each day for a resident needing skilled care
4 and 2.1 hours of nursing and personal care each day for a
5 resident needing intermediate care.

6 (4) Effective January 1, 2013, the minimum staffing
7 ratios shall be increased to 3.4 hours of nursing and
8 personal care each day for a resident needing skilled care
9 and 2.3 hours of nursing and personal care each day for a
10 resident needing intermediate care.

11 (5) Effective January 1, 2014, the minimum staffing
12 ratios shall be increased to 3.8 hours of nursing and
13 personal care each day for a resident needing skilled care
14 and 2.5 hours of nursing and personal care each day for a
15 resident needing intermediate care.

16 (210 ILCS 45/3-202.2a new)

17 Sec. 3-202.2a. Comprehensive resident care plan. A
18 facility, with the participation of the resident and the
19 resident's guardian or representative, as applicable, must
20 develop and implement a comprehensive care plan for each
21 resident that includes measurable objectives and timetables to
22 meet the resident's medical, nursing, and mental and
23 psychosocial needs that are identified in the resident's
24 comprehensive assessment, which allow the resident to attain or
25 maintain the highest practicable level of independent

1 functioning, and provide for discharge planning to the least
2 restrictive setting based on the resident's care needs. The
3 assessment shall be developed with the active participation of
4 the resident and the resident's guardian or representative, as
5 applicable.

6 (210 ILCS 45/3-202.2b new)

7 Sec. 3-202.2b. Certification of psychiatric rehabilitation
8 program.

9 (a) No later than January 1, 2011, the Department shall
10 file with the Joint Committee on Administrative Rules, pursuant
11 to the Illinois Administrative Procedure Act, proposed rules or
12 proposed amendments to existing rules to establish a special
13 certification program for compliance with 77 Ill. Admin. Code
14 300.4000 and following (Subpart S), which provides for
15 psychiatric rehabilitation services that are required to be
16 offered by a long term care facility licensed under this Act
17 that serves residents with serious mental illness. Compliance
18 with standards promulgated pursuant to this Section must be
19 demonstrated before a long term care facility licensed under
20 this Act is eligible to become certified under this Section and
21 annually thereafter.

22 (b) No long term care facility shall establish, operate,
23 maintain, or offer psychiatric rehabilitation services, or
24 admit, retain, or seek referrals of a resident with a serious
25 mental illness diagnosis, unless and until a valid

1 certification, which remains unsuspended, unrevoked, and
2 unexpired, has been issued.

3 (c) A facility that currently serves a resident with
4 serious mental illness may continue to admit such residents
5 until the Department performs a certification review and
6 determines that the facility does not meet the requirements for
7 certification. The Department, at its discretion, may provide
8 an additional 90-day period for the facility to meet the
9 requirements for certification if it finds that the facility
10 has made a good faith effort to comply with all certification
11 requirements and will achieve total compliance with the
12 requirements before the end of the 90-day period. The facility
13 shall be prohibited from admitting residents with serious
14 mental illness until the Department certifies the facility to
15 be in compliance with the requirements of this Section.

16 (d) A facility currently serving residents with serious
17 mental illness that elects to terminate provision of services
18 to this population must immediately notify the Department of
19 its intent, cease to admit new residents with serious mental
20 illness, and give notice to all existing residents with serious
21 mental illness of their impending discharge. These residents
22 shall be accorded all rights and assistance provided to a
23 resident being involuntarily discharged and those provided
24 under Section 2-201.5. The facility shall continue to adhere to
25 all requirements of 77 Ill. Admin. Code 300.4000 until all
26 residents with serious mental illness have been discharged.

1 (e) A long term care facility found to be out of compliance
2 with the certification requirements under this Section may be
3 subject to denial, revocation, or suspension of the psychiatric
4 rehabilitation services certification or the imposition of
5 sanctions and penalties, including the immediate suspension of
6 new admissions. Hearings shall be conducted pursuant to Article
7 III, Part 7 of this Act.

8 (f) The Department shall indicate, on its list of licensed
9 long term care facilities, which facilities are certified under
10 this Section and shall distribute this list to the appropriate
11 State agencies charged with administering and implementing the
12 State's program of pre-admission screening and resident
13 review, hospital discharge planners, Area Agencies on Aging,
14 Case Coordination Units, and others upon request.

15 (g) No public official, agent, or employee of the State, or
16 any subcontractor of the State, may refer or arrange for the
17 placement of a person with serious mental illness in a long
18 term care facility that is not certified under this Section. No
19 public official, agent, or employee of the State, or any
20 subcontractor of the State, may place the name of a long term
21 care facility on a list of facilities serving the seriously
22 mentally ill for distribution to the general public or to
23 professionals arranging for placements or making referrals
24 unless the facility is certified under this Section.

25 (h) Certification requirements. The Department shall
26 establish requirements for certification that augment current

1 quality of care standards for long term care facilities serving
2 residents with serious mental illness, which shall include
3 admission, discharge planning, psychiatric rehabilitation
4 services, development of age-group appropriate treatment plan
5 goals and services, behavior management services, coordination
6 with community mental health services, staff qualifications
7 and training, clinical consultation, resident access to the
8 outside community, and appropriate environment and space for
9 resident programs, recreation, privacy, and any other issue
10 deemed appropriate by the Department. The augmented standards
11 shall at a minimum include, but need not be limited to, the
12 following:

13 (1) Staff sufficient in number and qualifications
14 necessary to meet the scheduled and unscheduled needs of
15 the residents on a 24-hour basis. The Department shall
16 establish by rule the minimum number of psychiatric
17 services rehabilitation coordinators in relation to the
18 number of residents with serious mental illness residing in
19 the facility.

20 (2) The number and qualifications of consultants
21 required to be contracted with to provide continuing
22 education and training, and to assist with program
23 development.

24 (3) Training for all new employees specific to the care
25 needs of residents with a serious mental illness diagnosis
26 during their orientation period and annually thereafter.

1 Training shall be independent of the Department and
2 overseen by an agency designated by the Governor to
3 determine the content of all facility employee training and
4 to provide training for all trainers of facility employees.
5 Training of employees shall at minimum include, but need
6 not be limited to, (i) the impact of a serious mental
7 illness diagnosis, (ii) the recovery paradigm and the role
8 of psychiatric rehabilitation, (iii) preventive strategies
9 for managing aggression and crisis prevention, (iv) basic
10 psychiatric rehabilitation techniques and service
11 delivery, (v) resident rights, (vi) abuse prevention,
12 (vii) appropriate interaction between staff and residents,
13 and (viii) any other topic deemed by the Department to be
14 important to ensuring quality of care.

15 (4) Quality assessment and improvement requirements,
16 in addition to those contained in this Act on the effective
17 date of this amendatory Act of the 96th General Assembly,
18 specific to a facility's residential psychiatric
19 rehabilitation services, which shall be made available to
20 the Department upon request. A facility shall be required
21 at a minimum to develop and maintain policies and
22 procedures that include, but need not be limited to,
23 evaluation of the appropriateness of resident admissions
24 based on the facility's capacity to meet specific needs,
25 resident assessments, development and implementation of
26 care plans, and discharge planning.

1 (5) Room selection and appropriateness of roommate
2 assignment.

3 (6) Comprehensive quarterly review of all treatment
4 plans for residents with serious mental illness by the
5 resident's interdisciplinary team, which takes into
6 account, at a minimum, the resident's progress, prior
7 assessments, and treatment plan.

8 (7) Substance abuse screening and management and
9 documented referral relationships with certified substance
10 abuse treatment providers.

11 (8) Administration of psychotropic medications to a
12 resident with serious mental illness who is incapable of
13 giving informed consent, in compliance with the applicable
14 provisions of the Mental Health and Developmental
15 Disabilities Code.

16 (i) The Department shall establish a certification fee
17 schedule by rule, in consultation with advocates, nursing
18 homes, and representatives of associations representing long
19 term care facilities.

20 (j) The Director or her or his designee shall seek input
21 from the Long Term Care Facility Advisory Board before filing
22 rules to implement this Section.

23 Rules proposed no later than January 1, 2011 under this
24 Section shall take effect 180 days after being approved by the
25 Joint Committee on Administrative Rules.

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

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

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

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

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

21 (3) Provide evidence of employment or occupation, if
22 any, and residence for 2 years prior to his present
23 employment.†

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

26 (5) Begin a current course of training for nursing

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

16 The Department may accept comparable training in lieu
17 of the 120 hour course for student nurses, foreign nurses,
18 military personnel, or employes of the Department of Human
19 Services.

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

25 At the time of each regularly scheduled licensure
26 survey, or at the time of a complaint investigation, the

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

12 (6) Be familiar with and have general skills related to
13 resident care.

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

23 (a-1) Nursing assistants, habilitation aides, or child
24 care aides seeking to be included on the registry maintained
25 under Section 3-206.01 on or after January 1, 1996 must
26 authorize the Department of Public Health or its designee ~~that~~

1 ~~tests nursing assistants~~ to request a ~~UCIA~~ criminal history
2 record check in accordance with the Health Care Worker
3 Background Check Act and submit all necessary information. An
4 individual may not newly be included on the registry unless a
5 criminal history record check has been conducted with respect
6 to the individual.

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

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

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

20 (e) Each facility shall obtain access to the health care
21 worker registry's web application, maintain the employment and
22 demographic information relating to ~~certify to the Department~~
23 ~~on a form provided by the Department the name and residence~~
24 ~~address of~~ each employee, and verify by the category and type
25 of employment that each employee subject to this Section meets
26 all the requirements of this Section.

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

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

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

1 who have performed no nursing or nursing-related services for a
2 period of 24 consecutive months shall be listed as "inactive"
3 and as such do not meet the requirements of this Section.

4 Licensed sheltered care facilities shall be exempt from the
5 requirements of this Section.

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

7 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.
8 4153-206.01)

9 Sec. 3-206.01. Health care worker registry.

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

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

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

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

16 (b) The Department shall add to the health care worker
17 registry records of findings as reported by the Inspector
18 General or remove from the health care worker registry records
19 of findings as reported by the Department of Human Services,
20 under subsection (g-5) of Section 1-17 of the Department of
21 Human Services Act.

22 (Source: P.A. 95-545, eff. 8-28-07.)

23 (210 ILCS 45/3-206.02) (from Ch. 111 1/2, par.
24 4153-206.02)

25 Sec. 3-206.02. (a) The Department, after notice to the

1 nursing assistant, habilitation aide, home health aide,
2 psychiatric services rehabilitation aide, or child care aide,
3 may denote that the Department has found any of the following:

4 (1) The nursing assistant, habilitation aide, home
5 health aide, psychiatric services rehabilitation aide, or
6 child care aide has abused a resident.

7 (2) The nursing assistant, habilitation aide, home
8 health aide, psychiatric services rehabilitation aide, or
9 child care aide has neglected a resident.

10 (3) The nursing assistant, habilitation aide, home
11 health aide, psychiatric services rehabilitation aide, or
12 child care aide has misappropriated resident property.

13 (4) The nursing assistant, habilitation aide, home
14 health aide, psychiatric services rehabilitation aide, or
15 child care aide has been convicted of (i) a felony, (ii) a
16 misdemeanor, an essential element of which is dishonesty,
17 or (iii) any crime that is directly related to the duties
18 of a nursing assistant, habilitation aide, or child care
19 aide.

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

24 (c) The Department may denote any nursing assistant,
25 habilitation aide, home health aide, psychiatric services
26 rehabilitation aide, or child care aide on the registry who

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

6 (c-1) The Department shall document criminal background
7 check results pursuant to the requirements of the Health Care
8 Worker Background Check Act.

9 (d) At any time after the designation on the registry
10 pursuant to subsection (a), (b), or (c) of this Section, a
11 nursing assistant, habilitation aide, home health aide,
12 psychiatric services rehabilitation aide, or child care aide
13 may petition the Department for removal of a designation of
14 neglect on the registry. The Department may remove the
15 designation of neglect of the nursing assistant, habilitation
16 aide, home health aide, psychiatric services rehabilitation
17 aide, or child care aide on the registry unless, after an
18 investigation and a hearing, the Department determines that
19 removal of designation is not in the public interest.

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

21 (210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)

22 Sec. 3-212. Inspection.

23 (a) The Department, whenever it deems necessary in
24 accordance with subsection (b), shall inspect, survey and
25 evaluate every facility to determine compliance with

1 applicable licensure requirements and standards. Submission of
2 a facility's current Consumer Choice Information Report
3 required by Section 2-214 shall be verified at time of
4 inspection. An inspection should occur within 120 days prior to
5 license renewal. The Department may periodically visit a
6 facility for the purpose of consultation. An inspection,
7 survey, or evaluation, other than an inspection of financial
8 records, shall be conducted without prior notice to the
9 facility. A visit for the sole purpose of consultation may be
10 announced. The Department shall provide training to surveyors
11 about the appropriate assessment, care planning, and care of
12 persons with mental illness (other than Alzheimer's disease or
13 related disorders) to enable its surveyors to determine whether
14 a facility is complying with State and federal requirements
15 about the assessment, care planning, and care of those persons.

16 (a-1) An employee of a State or unit of local government
17 agency charged with inspecting, surveying, and evaluating
18 facilities who directly or indirectly gives prior notice of an
19 inspection, survey, or evaluation, other than an inspection of
20 financial records, to a facility or to an employee of a
21 facility is guilty of a Class A misdemeanor.

22 An inspector or an employee of the Department who
23 intentionally prenotifies a facility, orally or in writing, of
24 a pending complaint investigation or inspection shall be guilty
25 of a Class A misdemeanor. Superiors of persons who have
26 prenotified a facility shall be subject to the same penalties,

1 if they have knowingly allowed the prenotification. A person
2 found guilty of prenotifying a facility shall be subject to
3 disciplinary action by his or her employer.

4 If the Department has a good faith belief, based upon
5 information that comes to its attention, that a violation of
6 this subsection has occurred, it must file a complaint with the
7 Attorney General or the State's Attorney in the county where
8 the violation took place within 30 days after discovery of the
9 information.

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

20 (b) In determining whether to make more than the required
21 number of unannounced inspections, surveys and evaluations of a
22 facility the Department shall consider one or more of the
23 following: previous inspection reports; the facility's history
24 of compliance with standards, rules and regulations
25 promulgated under this Act and correction of violations,
26 penalties or other enforcement actions; the number and severity

1 of complaints received about the facility; any allegations of
2 resident abuse or neglect; weather conditions; health
3 emergencies; other reasonable belief that deficiencies exist.

4 (b-1) The Department shall not be required to determine
5 whether a facility certified to participate in the Medicare
6 program under Title XVIII of the Social Security Act, or the
7 Medicaid program under Title XIX of the Social Security Act,
8 and which the Department determines by inspection under this
9 Section or under Section 3-702 of this Act to be in compliance
10 with the certification requirements of Title XVIII or XIX, is
11 in compliance with any requirement of this Act that is less
12 stringent than or duplicates a federal certification
13 requirement. In accordance with subsection (a) of this Section
14 or subsection (d) of Section 3-702, the Department shall
15 determine whether a certified facility is in compliance with
16 requirements of this Act that exceed federal certification
17 requirements. If a certified facility is found to be out of
18 compliance with federal certification requirements, the
19 results of an inspection conducted pursuant to Title XVIII or
20 XIX of the Social Security Act may be used as the basis for
21 enforcement remedies authorized and commenced, with the
22 Department's discretion to evaluate whether penalties are
23 warranted, under this Act. Enforcement of this Act against a
24 certified facility shall be commenced pursuant to the
25 requirements of this Act, unless enforcement remedies sought
26 pursuant to Title XVIII or XIX of the Social Security Act

1 exceed those authorized by this Act. As used in this
2 subsection, "enforcement remedy" means a sanction for
3 violating a federal certification requirement or this Act.

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

1 and safety, the comments and documentation provided by the
2 facility, the diligence and efforts to correct deficiencies,
3 correction of the reported deficiencies, the frequency and
4 duration of similar findings in previous reports and the
5 facility's general inspection history. Violations shall be
6 determined under this subsection no later than 90 ~~60~~ days after
7 completion of each inspection, survey and evaluation.

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

11 (e) Revisit surveys. The Department shall conduct a revisit
12 to its licensure and certification surveys, consistent with
13 federal regulations and guidelines.

14 (Source: P.A. 95-823, eff. 1-1-09.)

15 (210 ILCS 45/3-303) (from Ch. 111 1/2, par. 4153-303)

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

22 (b) At the time of issuance of a notice of a Type "B"
23 violation, the Department shall request a plan of correction
24 which is subject to the Department's approval. The facility
25 shall have 10 days after receipt of notice of violation in

1 which to prepare and submit a plan of correction. The
2 Department may extend this period up to 30 days where
3 correction involves substantial capital improvement. The plan
4 shall include a fixed time period not in excess of 90 days
5 within which violations are to be corrected. If the Department
6 rejects a plan of correction, it shall send notice of the
7 rejection and the reason for the rejection to the facility. The
8 facility shall have 10 days after receipt of the notice of
9 rejection in which to submit a modified plan. If the modified
10 plan is not timely submitted, or if the modified plan is
11 rejected, the facility shall follow an approved plan of
12 correction imposed by the Department.

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

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

24 (e) If a facility desires to contest any Department action
25 under this Section it shall send a written request for a
26 hearing under Section 3-703 to the Department within 10 days of

1 receipt of notice of the contested action. The Department shall
2 commence the hearing as provided under Section 3-703. Whenever
3 possible, all action of the Department under this Section
4 arising out of a violation shall be contested and determined at
5 a single hearing. Issues decided after a hearing may not be
6 reheard at subsequent hearings under this Section.

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

8 (210 ILCS 45/3-303.2) (from Ch. 111 1/2, par. 4153-303.2)

9 Sec. 3-303.2. (a) If the Department finds a situation,
10 condition or practice which violates this Act or any rule
11 promulgated thereunder which does not constitute a Type "AA",
12 Type "A", Type "B", or Type "C" violation ~~directly threaten the~~
13 ~~health, safety or welfare of a resident,~~ the Department shall
14 issue an administrative warning. Any administrative warning
15 shall be served upon the facility in the same manner as the
16 notice of violation under Section 3-301. The facility shall be
17 responsible for correcting the situation, condition or
18 practice; however, no written plan of correction need be
19 submitted for an administrative warning, except for violations
20 of Sections 3-401 through 3-413 or the rules promulgated
21 thereunder. A written plan of correction is required to be
22 filed for an administrative warning issued for violations of
23 Sections 3-401 through 3-413 or the rules promulgated
24 thereunder.

25 (b) If, however, the situation, condition or practice which

1 resulted in the issuance of an administrative warning, with the
2 exception of administrative warnings issued pursuant to
3 Sections 3-401 through 3-413 or the rules promulgated
4 thereunder, is not corrected by the next on-site inspection by
5 the Department which occurs no earlier than 90 days from the
6 issuance of the administrative warning, a written plan of
7 correction must be submitted in the same manner as provided in
8 subsection (b) of Section 3-303.

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

10 (210 ILCS 45/3-304.1)

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

12 (a) The Department must make information regarding nursing
13 homes in the State available to the public in electronic form
14 on the World Wide Web, including all of the following
15 information:

16 (1) who regulates nursing homes;

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

19 (3) deficiencies and plans of correction;

20 (4) enforcement remedies;

21 (5) penalty letters;

22 (6) designation of penalty monies;

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

1 (8) advisory standards;

2 (9) deficiency-free surveys; ~~and~~

3 (10) enforcement actions and enforcement summaries;

4 ~~and-~~

5 (11) distressed facilities.

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

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

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

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

15 (210 ILCS 45/3-304.2 new)

16 Sec. 3-304.2. Designation of distressed facilities.

17 (a) By May 1, 2011, and quarterly thereafter, the
18 Department shall generate and publish quarterly a list of
19 distressed facilities. Criteria for inclusion of certified
20 facilities on the list shall be those used by the U.S. General
21 Accounting Office in report 9-689, until such time as the
22 Department by rule modifies the criteria.

23 (b) In deciding whether and how to modify the criteria used
24 by the General Accounting Office, the Department shall complete
25 a test run of any substitute criteria to determine their

1 reliability by comparing the number of facilities identified as
2 distressed against the number of distressed facilities
3 generated using the criteria contained in the General
4 Accounting Office report. The Department may not adopt
5 substitute criteria that generate fewer facilities with a
6 distressed designation than are produced by the General
7 Accounting Office criteria during the test run.

8 (c) The Department shall, by rule, adopt criteria to
9 identify non-Medicaid-certified facilities that are distressed
10 and shall publish this list quarterly beginning October 1,
11 2011.

12 (d) The Department shall notify each facility of its
13 distressed designation, and of the calculation on which it is
14 based.

15 (e) A distressed facility may contract with an independent
16 consultant meeting criteria established by the Department. If
17 the distressed facility does not seek the assistance of an
18 independent consultant, the Department shall place a monitor or
19 a temporary manager in the facility, depending on the
20 Department's assessment of the condition of the facility.

21 (f) Independent consultant. A facility that has been
22 designated a distressed facility may contract with an
23 independent consultant to develop and assist in the
24 implementation of a plan of improvement to bring and keep the
25 facility in compliance with this Act and, if applicable, with
26 federal certification requirements. A facility that contracts

1 with an independent consultant shall have 90 days to develop a
2 plan of improvement and demonstrate a good faith effort at
3 implementation, and another 90 days to achieve compliance and
4 take whatever additional actions are called for in the
5 improvement plan to maintain compliance. A facility that the
6 Department determines has a plan of improvement likely to bring
7 and keep the facility in compliance and that has demonstrated
8 good faith efforts at implementation within the first 90 days
9 may be eligible to receive a grant under the Equity in
10 Long-term Care Quality Act, to assist it in achieving and
11 maintaining compliance. In this subsection, "independent"
12 consultant means an individual who has no professional or
13 financial relationship with the facility, any person with a
14 reportable ownership interest in the facility, or any related
15 parties. In this subsection, "related parties" has the meaning
16 attributed to it in the instructions for completing Medicaid
17 cost reports.

18 (f) Monitor and temporary managers. A distressed facility
19 that does not contract with a consultant shall be assigned a
20 monitor or a temporary manager at the Department's discretion.
21 The cost of the temporary manager shall be paid by the
22 facility. The temporary manager shall have the authority
23 determined by the Department, which may grant the temporary
24 manager any or all of the authority a court may grant a
25 receiver. The temporary manager may apply to the Equity in
26 Long-term Care Quality Fund for grant funds to implement the

1 plan of improvement.

2 (g) The Department shall by rule establish a mentor program
3 for owners of distressed facilities.

4 (h) The Department shall by rule establish sanctions (in
5 addition to those authorized elsewhere in this Article) against
6 distressed facilities that are not in compliance with this Act
7 and (if applicable) with federal certification requirements.
8 Criteria for imposing sanctions shall take into account a
9 facility's actions to address the violations and deficiencies
10 that caused its designation as a distressed facility, and its
11 compliance with this Act and with federal certification
12 requirements (if applicable), subsequent to its designation as
13 a distressed facility, including mandatory revocations if
14 criteria can be agreed upon by the Department, resident
15 advocates, and representatives of the nursing home profession.
16 By February 1, 2011, the Department shall report to the General
17 Assembly on the results of negotiations about creating criteria
18 for mandatory license revocations of distressed facilities and
19 make recommendations about any statutory changes it believes
20 are appropriate to protect the health, safety, and welfare of
21 nursing home residents.

22 (i) The Department may establish by rule criteria for
23 restricting the owner of a facility on the distressed list from
24 acquiring additional skilled nursing facilities.

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

5 (1) ~~A Unless a greater penalty or fine is allowed under~~
6 ~~subsection (3), a licensee who commits a Type "AA" "A"~~
7 ~~violation as defined in Section 1-128.5 ~~1-129~~ is automatically~~
8 ~~issued a conditional license for a period of 6 months to~~
9 ~~coincide with an acceptable plan of correction and assessed a~~
10 ~~fine up to \$25,000 per violation ~~computed at a rate of \$5.00~~~~
11 ~~per resident in the facility plus 20 cents per resident for~~
12 ~~each day of the violation, commencing on the date a notice of~~
13 ~~the violation is served under Section 3-301 and ending on the~~
14 ~~date the violation is corrected, or a fine of not less than~~
15 ~~\$5,000, or when death, serious mental or physical harm,~~
16 ~~permanent disability, or disfigurement results, a fine of not~~
17 ~~less than \$10,000, whichever is greater.~~

18 (1.5) A licensee who commits a Type "A" violation as
19 defined in Section 1-129 is automatically issued a conditional
20 license for a period of 6 months to coincide with an acceptable
21 plan of correction and assessed a fine of up to \$12,500 per
22 violation.

23 (2) A licensee who commits a Type "B" violation as defined
24 in Section 1-130 shall be assessed a fine of up to \$1,100 per
25 violation ~~or who is issued an administrative warning for a~~
26 ~~violation of Sections 3-401 through 3-413 or the rules~~

1 ~~promulgated thereunder is subject to a penalty computed at a~~
2 ~~rate of \$3 per resident in the facility, plus 15 cents per~~
3 ~~resident for each day of the violation, commencing on the date~~
4 ~~a notice of the violation is served under Section 3-301 and~~
5 ~~ending on the date the violation is corrected, or a fine not~~
6 ~~less than \$500, whichever is greater. Such fine shall be~~
7 ~~assessed on the date of notice of the violation and shall be~~
8 ~~suspended for violations that continue after such date upon~~
9 ~~completion of a plan of correction in accordance with Section~~
10 ~~3-308 in relation to the assessment of fines and correction.~~
11 ~~Failure to correct such violation within the time period~~
12 ~~approved under a plan of correction shall result in a fine and~~
13 ~~conditional license as provided under subsection (5).~~

14 (2.5) A licensee who commits 10 or more Type "C"
15 violations, as defined in Section 1-132, in a single survey
16 shall be assessed a fine of up to \$250 per violation. A
17 licensee who commits a one or more Type "C" violations with a
18 high risk designation, as defined by rule, shall be assessed a
19 fine of up to \$500 per violation.

20 (3) A licensee who commits a Type "AA" or Type "A"
21 violation as defined in Section 1-128.5 or 1-129 which
22 continues beyond the time specified in paragraph (a) of Section
23 3-303 which is cited as a repeat violation shall have its
24 license revoked and shall be assessed a fine of 3 times the
25 fine computed per resident per day under subsection (1).

26 (4) A licensee who fails to satisfactorily comply with an

1 accepted plan of correction for a Type "B" violation or an
2 administrative warning issued pursuant to Sections 3-401
3 through 3-413 or the rules promulgated thereunder shall be
4 automatically issued a conditional license for a period of not
5 less than 6 months. A second or subsequent acceptable plan of
6 correction shall be filed. A fine shall be assessed in
7 accordance with subsection (2) when cited for the repeat
8 violation. This fine shall be computed for all days of the
9 violation, including the duration of the first plan of
10 correction compliance time.

11 (5) For the purpose of computing a penalty under
12 subsections (2) through (4), the number of residents per day
13 shall be based on the average number of residents in the
14 facility during the 30 days preceding the discovery of the
15 violation.

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

26 (7) For purposes of assessing fines under this Section, a

1 repeat violation shall be a violation which has been cited
2 during one inspection of the facility for which an accepted
3 plan of correction was not complied with or. ~~A repeat violation~~
4 ~~shall not be~~ a new citation of the same rule if, ~~unless~~ the
5 licensee is not substantially addressing the issue routinely
6 throughout the facility.

7 (7.5) If an occurrence results in more than one type of
8 violation as defined in this Act (that is, a Type "AA", Type
9 "A", Type "B", or Type "C" violation), the maximum fine that
10 may be assessed for that occurrence is the maximum fine that
11 may be assessed for the most serious type of violation charged.
12 For purposes of the preceding sentence, a Type "AA" violation
13 is the most serious type of violation that may be charged,
14 followed by a Type "A", Type "B", or Type "C" violation, in
15 that order.

16 (8) The minimum and maximum fines that may be assessed
17 pursuant to this Section shall be twice those otherwise
18 specified for any facility that willfully makes a misstatement
19 of fact to the Department, or willfully fails to make a
20 required notification to the Department, if that misstatement
21 or failure delays the start of a surveyor or impedes a survey.

22 (9) High risk designation. If the Department finds that a
23 facility has violated a provision of the Illinois
24 Administrative Code that has a high risk designation, or that a
25 facility has violated the same provision of the Illinois
26 Administrative Code 3 or more times in the previous 12 months,

1 the Department may assess a fine of up to 2 times the maximum
2 fine otherwise allowed.

3 (10) If a licensee has paid a civil monetary penalty
4 imposed pursuant to the Medicare and Medicaid Certification
5 Program for the equivalent federal violation giving rise to a
6 fine under this Section, the Department shall offset the fine
7 by the amount of the civil monetary penalty. The offset may not
8 reduce the fine by more than 75% of the original fine, however.

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

10 (210 ILCS 45/3-306) (from Ch. 111 1/2, par. 4153-306)

11 Sec. 3-306. In determining whether a penalty is to be
12 imposed and in determining ~~fixing~~ the amount of the penalty to
13 be imposed, if any, for a violation, the Director shall
14 consider the following factors:

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

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

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

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

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

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

2 Sec. 3-309. A facility may contest an assessment of a
3 penalty by sending a written request to the Department for
4 hearing under Section 3-703. Upon receipt of the request the
5 Department shall hold a hearing as provided under Section
6 3-703. Instead of requesting a hearing pursuant to Section
7 3-703, a facility may, within 10 business days after receipt of
8 the notice of violation and fine assessment, transmit to the
9 Department (i) 65% of the amount assessed for each violation
10 specified in the penalty assessment or (ii) in the case of a
11 fine subject to offset under paragraph (10) of Section 3-305,
12 up to 75% of the amount assessed.

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

14 (210 ILCS 45/3-310) (from Ch. 111 1/2, par. 4153-310)

15 Sec. 3-310. All penalties shall be paid to the Department
16 within 10 days of receipt of notice of assessment or, if the
17 penalty is contested under Section 3-309, within 10 days of
18 receipt of the final decision, unless the decision is appealed
19 and the order is stayed by court order under Section 3-713. A
20 facility choosing to waive the right to a hearing under Section
21 3-309 shall submit a payment totaling 65% of the original fine
22 amount along with the written waiver. A penalty assessed under
23 this Act shall be collected by the Department and shall be
24 deposited with the State Treasurer into the Long Term Care

1 Monitor/Receiver Fund. If the person or facility against whom a
2 penalty has been assessed does not comply with a written demand
3 for payment within 30 days, the Director shall issue an order
4 to do any of the following:

5 (1) Direct the State Treasurer or Comptroller to deduct
6 the amount of the fine from amounts otherwise due from the
7 State for the penalty, including any payments to be made
8 from the Medicaid Long Term Care Provider Participation Fee
9 Trust Fund established under Section 5-4.31 of the Illinois
10 Public Aid Code, and remit that amount to the Department;

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

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

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

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

23 (210 ILCS 45/3-318) (from Ch. 111 1/2, par. 4153-318)

24 Sec. 3-318. (a) No person shall:

25 (1) Intentionally fail to correct or interfere with the

1 correction of a Type "AA", Type "A", or Type "B" violation
2 within the time specified on the notice or approved plan of
3 correction under this Act as the maximum period given for
4 correction, unless an extension is granted and the corrections
5 are made before expiration of extension;

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

9 (3) Intentionally prevent or attempt to prevent any
10 examination of any relevant books or records pertinent to
11 investigations and enforcement of this Act;

12 (4) Intentionally prevent or interfere with the
13 preservation of evidence pertaining to any violation of this
14 Act or the rules promulgated under this Act;

15 (5) Intentionally retaliate or discriminate against any
16 resident or employee for contacting or providing information to
17 any state official, or for initiating, participating in, or
18 testifying in an action for any remedy authorized under this
19 Act;

20 (6) Wilfully file any false, incomplete or intentionally
21 misleading information required to be filed under this Act, or
22 wilfully fail or refuse to file any required information; or

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

24 (b) A violation of this Section is a business offense,
25 punishable by a fine not to exceed \$10,000, except as otherwise
26 provided in subsection (2) of Section 3-103 as to submission of

1 false or misleading information in a license application.

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

5 (Source: P.A. 83-1530.)

6 (210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

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

11 (a) When ~~when~~ an emergency transfer or discharge is ordered
12 by the resident's attending physician because of the resident's
13 health care needs. ~~;~~ ~~or~~

14 (b) When ~~when~~ the transfer or discharge is mandated by the
15 physical safety of other residents, the facility staff, or
16 facility visitors, as documented in the clinical record. The
17 Department shall be notified prior to any such involuntary
18 transfer or discharge. The Department shall immediately offer
19 transfer, or discharge and relocation assistance to residents
20 transferred or discharged under this subparagraph (b), and the
21 Department may place relocation teams as provided in Section
22 3-419 of this Act.

23 (c) When an identified offender is within the provisional
24 admission period defined in Section 1-120.3. If the Identified
25 Offender Report and Recommendation prepared under Section

1 2-201.6 shows that the identified offender poses a serious
2 threat or danger to the physical safety of other residents, the
3 facility staff, or facility visitors in the admitting facility
4 and the facility determines that it is unable to provide a safe
5 environment for the other residents, the facility staff, or
6 facility visitors, the facility shall transfer or discharge the
7 identified offender within 3 days after its receipt of the
8 Identified Offender Report and Recommendation.

9 (Source: P.A. 84-1322.)

10 (210 ILCS 45/3-501) (from Ch. 111 1/2, par. 4153-501)

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

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

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

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

22 (d) The Department determines that an emergency
23 exists, whether or not it has initiated revocation or
24 nonrenewal procedures, if because of the unwillingness or
25 inability of the licensee to remedy the emergency the

1 Department believes a monitor or receiver is necessary; ~~or~~

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

6 (f) The facility has been designated a distressed
7 facility by the Department and does not have a consultant
8 employed pursuant to subsection (f) of Section 3-304.2 and
9 an acceptable plan of improvement, or the Department has
10 reason to believe the facility is not complying with the
11 plan of improvement. Nothing in this paragraph (f) shall
12 preclude the Department from placing a monitor in a
13 facility if otherwise justified by law.

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

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

18 (210 ILCS 45/3-504) (from Ch. 111 1/2, par. 4153-504)

19 Sec. 3-504. The court shall hold a hearing within 5 days of
20 the filing of the petition. The petition and notice of the
21 hearing shall be served on the owner, administrator or
22 designated agent of the facility as provided under the Civil
23 Practice Law, or the petition and notice of hearing shall be
24 posted in a conspicuous place in the facility not later than 3
25 days before the time specified for the hearing, unless a

1 different period is fixed by order of the court. The court
2 shall appoint a receiver ~~for a limited time period, not to~~
3 ~~exceed 180 days,~~ if it finds that:

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

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

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

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

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

16 (210 ILCS 45/3-808 new)

17 Sec. 3-808. Protocol for sexual assault victims; nursing
18 home. The Department shall develop a protocol for the care and
19 treatment of residents who have been sexually assaulted in a
20 long term care facility or elsewhere.

21 (210 ILCS 45/3-809 new)

22 Sec. 3-809. Rules to implement changes. In developing rules
23 and regulations to implement changes made by this amendatory
24 Act of the 96th General Assembly, the Department shall seek the

1 input of advocates for long term care facility residents,
2 representatives of associations representing long term care
3 facilities, and representatives of associations representing
4 employees of long term care facilities.

5 (210 ILCS 45/3-810 new)

6 Sec. 3-810. Whistleblower protection.

7 (a) In this Section, "retaliatory action" means the
8 reprimand, discharge, suspension, demotion, denial of
9 promotion or transfer, or change in the terms and conditions of
10 employment of any employee of a facility that is taken in
11 retaliation for the employee's involvement in a protected
12 activity as set forth in paragraphs (1) through (3) of
13 subsection (b).

14 (b) A facility shall not take any retaliatory action
15 against an employee of the facility, including a nursing home
16 administrator, because the employee does any of the following:

17 (1) Discloses or threatens to disclose to a supervisor
18 or to a public body an activity, inaction, policy, or
19 practice implemented by a facility that the employee
20 reasonably believes is in violation of a law, rule, or
21 regulation.

22 (2) Provides information to or testifies before any
23 public body conducting an investigation, hearing, or
24 inquiry into any violation of a law, rule, or regulation by
25 a nursing home administrator.

1 (3) Assists or participates in a proceeding to enforce
2 the provisions of this Act.

3 (c) A violation of this Section may be established only
4 upon a finding that (i) the employee of the facility engaged in
5 conduct described in subsection (b) of this Section and (ii)
6 this conduct was a contributing factor in the retaliatory
7 action alleged by the employee. There is no violation of this
8 Section, however, if the facility demonstrates by clear and
9 convincing evidence that it would have taken the same
10 unfavorable personnel action in the absence of that conduct.

11 (d) The employee of the facility may be awarded all
12 remedies necessary to make the employee whole and to prevent
13 future violations of this Section. Remedies imposed by the
14 court may include, but are not limited to, all of the
15 following:

16 (1) Reinstatement of the employee to either the same
17 position held before the retaliatory action or to an
18 equivalent position.

19 (2) Two times the amount of back pay.

20 (3) Interest on the back pay.

21 (4) Reinstatement of full fringe benefits and
22 seniority rights.

23 (5) Payment of reasonable costs and attorney's fees.

24 (e) Nothing in this Section shall be deemed to diminish the
25 rights, privileges, or remedies of an employee of a facility
26 under any other federal or State law, rule, or regulation or

1 under any employment contract.

2 Section 30. The Hospital Licensing Act is amended by
3 changing Sections 6.09 and 7 as follows:

4 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

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

6 Sec. 6.09. (a) In order to facilitate the orderly
7 transition of aged and disabled patients from hospitals to
8 post-hospital care, whenever a patient who qualifies for the
9 federal Medicare program is hospitalized, the patient shall be
10 notified of discharge at least 24 hours prior to discharge from
11 the hospital. With regard to pending discharges to a skilled
12 nursing facility, the hospital must notify the case
13 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
14 least 24 hours prior to discharge or, if home health services
15 are ordered, the hospital must inform its designated case
16 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of
17 the pending discharge and must provide the patient with the
18 case coordination unit's telephone number and other contact
19 information.

20 (b) Every hospital shall develop procedures for a physician
21 with medical staff privileges at the hospital or any
22 appropriate medical staff member to provide the discharge
23 notice prescribed in subsection (a) of this Section. The
24 procedures must include prohibitions against discharging or

1 referring a patient to any of the following if unlicensed,
2 uncertified, or unregistered: (i) a board and care facility, as
3 defined in the Board and Care Home Act; (ii) an assisted living
4 and shared housing establishment, as defined in the Assisted
5 Living and Shared Housing Act; (iii) a facility licensed under
6 the Nursing Home Care Act; (iv) a supportive living facility,
7 as defined in Section 5-5.01a of the Illinois Public Aid Code;
8 or (v) a free-standing hospice facility licensed under the
9 Hospice Program Licensing Act if licensure, certification, or
10 registration is required. The Department of Public Health shall
11 annually provide hospitals with a list of licensed, certified,
12 or registered board and care facilities, assisted living and
13 shared housing establishments, nursing homes, supportive
14 living facilities, and hospice facilities. Reliance upon this
15 list by a hospital shall satisfy compliance with this
16 requirement. The procedure may also include a waiver for any
17 case in which a discharge notice is not feasible due to a short
18 length of stay in the hospital by the patient, or for any case
19 in which the patient voluntarily desires to leave the hospital
20 before the expiration of the 24 hour period.

21 (c) At least 24 hours prior to discharge from the hospital,
22 the patient shall receive written information on the patient's
23 right to appeal the discharge pursuant to the federal Medicare
24 program, including the steps to follow to appeal the discharge
25 and the appropriate telephone number to call in case the
26 patient intends to appeal the discharge.

1 (d) Before transfer of a patient to a long term care
2 facility licensed under the Nursing Home Care Act where elderly
3 persons reside, a hospital shall as soon as practicable
4 initiate a name-based criminal history background check by
5 electronic submission to the Department of State Police for all
6 persons between the ages of 18 and 70 years; provided, however,
7 that a hospital shall be required to initiate such a background
8 check only with respect to patients who:

9 (1) are transferring to a long term care facility for
10 the first time;

11 (2) have been in the hospital more than 5 days;

12 (3) are reasonably expected to remain at the long term
13 care facility for more than 30 days;

14 (4) have a known history of serious mental illness or
15 substance abuse; and

16 (5) are independently ambulatory or mobile for more
17 than a temporary period of time.

18 A hospital may also request a criminal history background
19 check for a patient who does not meet any of the criteria set
20 forth in items (1) through (5).

21 A hospital shall notify a long term care facility if the
22 hospital has initiated a criminal history background check on a
23 patient being discharged to that facility. In all circumstances
24 in which the hospital is required by this subsection to
25 initiate the criminal history background check, the transfer to
26 the long term care facility may proceed regardless of the

1 availability of criminal history results. Upon receipt of the
2 results, the hospital shall promptly forward the results to the
3 appropriate long term care facility. If the results of the
4 background check are inconclusive, the hospital shall have no
5 additional duty or obligation to seek additional information
6 from, or about, the patient.

7 (Source: P.A. 94-335, eff. 7-26-05; 95-80, eff. 8-13-07;
8 95-651, eff. 10-11-07; 95-876, eff. 8-21-08.)

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

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11 transition of aged and disabled patients from hospitals to
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16 nursing facility, the hospital must notify the case
17 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
18 least 24 hours prior to discharge or, if home health services
19 are ordered, the hospital must inform its designated case
20 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of
21 the pending discharge and must provide the patient with the
22 case coordination unit's telephone number and other contact
23 information.

24 (b) Every hospital shall develop procedures for a physician
25 with medical staff privileges at the hospital or any

1 appropriate medical staff member to provide the discharge
2 notice prescribed in subsection (a) of this Section. The
3 procedures must include prohibitions against discharging or
4 referring a patient to any of the following if unlicensed,
5 uncertified, or unregistered: (i) a board and care facility, as
6 defined in the Board and Care Home Act; (ii) an assisted living
7 and shared housing establishment, as defined in the Assisted
8 Living and Shared Housing Act; (iii) a facility licensed under
9 the Nursing Home Care Act or the MR/DD Community Care Act; (iv)
10 a supportive living facility, as defined in Section 5-5.01a of
11 the Illinois Public Aid Code; or (v) a free-standing hospice
12 facility licensed under the Hospice Program Licensing Act if
13 licensure, certification, or registration is required. The
14 Department of Public Health shall annually provide hospitals
15 with a list of licensed, certified, or registered board and
16 care facilities, assisted living and shared housing
17 establishments, nursing homes, supportive living facilities,
18 facilities licensed under the MR/DD Community Care Act, and
19 hospice facilities. Reliance upon this list by a hospital shall
20 satisfy compliance with this requirement. The procedure may
21 also include a waiver for any case in which a discharge notice
22 is not feasible due to a short length of stay in the hospital
23 by the patient, or for any case in which the patient
24 voluntarily desires to leave the hospital before the expiration
25 of the 24 hour period.

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2 right to appeal the discharge pursuant to the federal Medicare
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4 and the appropriate telephone number to call in case the
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8 persons reside, a hospital shall as soon as practicable
9 initiate a name-based criminal history background check by
10 electronic submission to the Department of State Police for all
11 persons between the ages of 18 and 70 years; provided, however,
12 that a hospital shall be required to initiate such a background
13 check only with respect to patients who:

14 (1) are transferring to a long term care facility for
15 the first time;

16 (2) have been in the hospital more than 5 days;

17 (3) are reasonably expected to remain at the long term
18 care facility for more than 30 days;

19 (4) have a known history of serious mental illness or
20 substances abuse; and

21 (5) are independently ambulatory or mobile for more
22 than a temporary period of time.

23 A hospital may also request a criminal history background
24 check for a patient who does not meet any of the criteria set
25 forth in items (1) through (5).

26 A hospital shall notify a long term care facility if the

1 hospital has initiated a criminal history background check on a
2 patient being discharged to that facility. In all circumstances
3 in which the hospital is required by this subsection to
4 initiate the criminal history background check, the transfer to
5 the long term care facility may proceed regardless of the
6 availability of criminal history results. Upon receipt of the
7 results, the hospital shall promptly forward the results to the
8 appropriate long term care facility. If the results of the
9 background check are inconclusive, the hospital shall have no
10 additional duty or obligation to seek additional information
11 from, or about, the patient.

12 (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;
13 95-876, eff. 8-21-08; 96-339, eff. 7-1-10.)

14 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

15 Sec. 7. (a) The Director after notice and opportunity for
16 hearing to the applicant or licensee may deny, suspend, or
17 revoke a permit to establish a hospital or deny, suspend, or
18 revoke a license to open, conduct, operate, and maintain a
19 hospital in any case in which he finds that there has been a
20 substantial failure to comply with the provisions of this Act,
21 the Hospital Report Card Act, or the Illinois Adverse Health
22 Care Events Reporting Law of 2005 or the standards, rules, and
23 regulations established by virtue of any of those Acts. The
24 Department may impose fines on hospitals, not to exceed \$500
25 per occurrence, for failing to initiate a criminal background

1 check on a patient that meets the criteria for
2 hospital-initiated background checks. In assessing whether to
3 impose such a fine, the Department shall consider various
4 factors including, but not limited to, whether the hospital has
5 engaged in a pattern or practice of failing to initiate
6 criminal background checks. Money from fines shall be deposited
7 into the Long Term Care Provider Fund.

8 (b) Such notice shall be effected by registered mail or by
9 personal service setting forth the particular reasons for the
10 proposed action and fixing a date, not less than 15 days from
11 the date of such mailing or service, at which time the
12 applicant or licensee shall be given an opportunity for a
13 hearing. Such hearing shall be conducted by the Director or by
14 an employee of the Department designated in writing by the
15 Director as Hearing Officer to conduct the hearing. On the
16 basis of any such hearing, or upon default of the applicant or
17 licensee, the Director shall make a determination specifying
18 his findings and conclusions. In case of a denial to an
19 applicant of a permit to establish a hospital, such
20 determination shall specify the subsection of Section 6 under
21 which the permit was denied and shall contain findings of fact
22 forming the basis of such denial. A copy of such determination
23 shall be sent by registered mail or served personally upon the
24 applicant or licensee. The decision denying, suspending, or
25 revoking a permit or a license shall become final 35 days after
26 it is so mailed or served, unless the applicant or licensee,

1 within such 35 day period, petitions for review pursuant to
2 Section 13.

3 (c) The procedure governing hearings authorized by this
4 Section shall be in accordance with rules promulgated by the
5 Department and approved by the Hospital Licensing Board. A full
6 and complete record shall be kept of all proceedings, including
7 the notice of hearing, complaint, and all other documents in
8 the nature of pleadings, written motions filed in the
9 proceedings, and the report and orders of the Director and
10 Hearing Officer. All testimony shall be reported but need not
11 be transcribed unless the decision is appealed pursuant to
12 Section 13. A copy or copies of the transcript may be obtained
13 by any interested party on payment of the cost of preparing
14 such copy or copies.

15 (d) The Director or Hearing Officer shall upon his own
16 motion, or on the written request of any party to the
17 proceeding, issue subpoenas requiring the attendance and the
18 giving of testimony by witnesses, and subpoenas duces tecum
19 requiring the production of books, papers, records, or
20 memoranda. All subpoenas and subpoenas duces tecum issued under
21 the terms of this Act may be served by any person of full age.
22 The fees of witnesses for attendance and travel shall be the
23 same as the fees of witnesses before the Circuit Court of this
24 State, such fees to be paid when the witness is excused from
25 further attendance. When the witness is subpoenaed at the
26 instance of the Director, or Hearing Officer, such fees shall

1 be paid in the same manner as other expenses of the Department,
2 and when the witness is subpoenaed at the instance of any other
3 party to any such proceeding the Department may require that
4 the cost of service of the subpoena or subpoena duces tecum and
5 the fee of the witness be borne by the party at whose instance
6 the witness is summoned. In such case, the Department in its
7 discretion, may require a deposit to cover the cost of such
8 service and witness fees. A subpoena or subpoena duces tecum
9 issued as aforesaid shall be served in the same manner as a
10 subpoena issued out of a court.

11 (e) Any Circuit Court of this State upon the application of
12 the Director, or upon the application of any other party to the
13 proceeding, may, in its discretion, compel the attendance of
14 witnesses, the production of books, papers, records, or
15 memoranda and the giving of testimony before the Director or
16 Hearing Officer conducting an investigation or holding a
17 hearing authorized by this Act, by an attachment for contempt,
18 or otherwise, in the same manner as production of evidence may
19 be compelled before the court.

20 (f) The Director or Hearing Officer, or any party in an
21 investigation or hearing before the Department, may cause the
22 depositions of witnesses within the State to be taken in the
23 manner prescribed by law for like depositions in civil actions
24 in courts of this State, and to that end compel the attendance
25 of witnesses and the production of books, papers, records, or
26 memoranda.

1 (Source: P.A. 93-563, eff. 1-1-04; 94-242, eff. 7-18-05.)

2 Section 33. The Medical Practice Act of 1987 is amended by
3 changing Sections 23 and 36 as follows:

4 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

5 (Section scheduled to be repealed on December 31, 2010)

6 Sec. 23. Reports relating to professional conduct and
7 capacity.

8 (A) Entities required to report.

9 (1) Health care institutions. The chief administrator
10 or executive officer of any health care institution
11 licensed by the Illinois Department of Public Health shall
12 report to the Disciplinary Board when any person's clinical
13 privileges are terminated or are restricted based on a
14 final determination, in accordance with that institution's
15 by-laws or rules and regulations, that a person has either
16 committed an act or acts which may directly threaten
17 patient care, and not of an administrative nature, or that
18 a person may be mentally or physically disabled in such a
19 manner as to endanger patients under that person's care.
20 Such officer also shall report if a person accepts
21 voluntary termination or restriction of clinical
22 privileges in lieu of formal action based upon conduct
23 related directly to patient care and not of an
24 administrative nature, or in lieu of formal action seeking

1 to determine whether a person may be mentally or physically
2 disabled in such a manner as to endanger patients under
3 that person's care. The Medical Disciplinary Board shall,
4 by rule, provide for the reporting to it of all instances
5 in which a person, licensed under this Act, who is impaired
6 by reason of age, drug or alcohol abuse or physical or
7 mental impairment, is under supervision and, where
8 appropriate, is in a program of rehabilitation. Such
9 reports shall be strictly confidential and may be reviewed
10 and considered only by the members of the Disciplinary
11 Board, or by authorized staff as provided by rules of the
12 Disciplinary Board. Provisions shall be made for the
13 periodic report of the status of any such person not less
14 than twice annually in order that the Disciplinary Board
15 shall have current information upon which to determine the
16 status of any such person. Such initial and periodic
17 reports of impaired physicians shall not be considered
18 records within the meaning of The State Records Act and
19 shall be disposed of, following a determination by the
20 Disciplinary Board that such reports are no longer
21 required, in a manner and at such time as the Disciplinary
22 Board shall determine by rule. The filing of such reports
23 shall be construed as the filing of a report for purposes
24 of subsection (C) of this Section.

25 (2) Professional associations. The President or chief
26 executive officer of any association or society, of persons

1 licensed under this Act, operating within this State shall
2 report to the Disciplinary Board when the association or
3 society renders a final determination that a person has
4 committed unprofessional conduct related directly to
5 patient care or that a person may be mentally or physically
6 disabled in such a manner as to endanger patients under
7 that person's care.

8 (3) Professional liability insurers. Every insurance
9 company which offers policies of professional liability
10 insurance to persons licensed under this Act, or any other
11 entity which seeks to indemnify the professional liability
12 of a person licensed under this Act, shall report to the
13 Disciplinary Board the settlement of any claim or cause of
14 action, or final judgment rendered in any cause of action,
15 which alleged negligence in the furnishing of medical care
16 by such licensed person when such settlement or final
17 judgment is in favor of the plaintiff.

18 (4) State's Attorneys. The State's Attorney of each
19 county shall report to the Disciplinary Board all instances
20 in which a person licensed under this Act is convicted or
21 otherwise found guilty of the commission of any felony. The
22 State's Attorney of each county may report to the
23 Disciplinary Board through a verified complaint any
24 instance in which the State's Attorney believes that a
25 physician has willfully violated the notice requirements
26 of the Parental Notice of Abortion Act of 1995.

1 (5) State agencies. All agencies, boards, commissions,
2 departments, or other instrumentalities of the government
3 of the State of Illinois shall report to the Disciplinary
4 Board any instance arising in connection with the
5 operations of such agency, including the administration of
6 any law by such agency, in which a person licensed under
7 this Act has either committed an act or acts which may be a
8 violation of this Act or which may constitute
9 unprofessional conduct related directly to patient care or
10 which indicates that a person licensed under this Act may
11 be mentally or physically disabled in such a manner as to
12 endanger patients under that person's care.

13 (B) Mandatory reporting. All reports required by items
14 (34), (35), and (36) of subsection (A) of Section 22 and by
15 Section 23 shall be submitted to the Disciplinary Board in a
16 timely fashion. The reports shall be filed in writing within 60
17 days after a determination that a report is required under this
18 Act. All reports shall contain the following information:

19 (1) The name, address and telephone number of the
20 person making the report.

21 (2) The name, address and telephone number of the
22 person who is the subject of the report.

23 (3) The name and date of birth of any patient or
24 patients whose treatment is a subject of the report, if
25 available, or other means of identification if such
26 information is not available, identification of the

1 hospital or other healthcare facility where the care at
2 issue in the report was rendered, provided, however, no
3 medical records may be revealed.

4 (4) A brief description of the facts which gave rise to
5 the issuance of the report, including the dates of any
6 occurrences deemed to necessitate the filing of the report.

7 (5) If court action is involved, the identity of the
8 court in which the action is filed, along with the docket
9 number and date of filing of the action.

10 (6) Any further pertinent information which the
11 reporting party deems to be an aid in the evaluation of the
12 report.

13 The Disciplinary Board or Department may also exercise the
14 power under Section 38 of this Act to subpoena copies of
15 hospital or medical records in mandatory report cases alleging
16 death or permanent bodily injury. Appropriate rules shall be
17 adopted by the Department with the approval of the Disciplinary
18 Board.

19 When the Department has received written reports
20 concerning incidents required to be reported in items (34),
21 (35), and (36) of subsection (A) of Section 22, the licensee's
22 failure to report the incident to the Department under those
23 items shall not be the sole grounds for disciplinary action.

24 Nothing contained in this Section shall act to in any way,
25 waive or modify the confidentiality of medical reports and
26 committee reports to the extent provided by law. Any

1 information reported or disclosed shall be kept for the
2 confidential use of the Disciplinary Board, the Medical
3 Coordinators, the Disciplinary Board's attorneys, the medical
4 investigative staff, and authorized clerical staff, as
5 provided in this Act, and shall be afforded the same status as
6 is provided information concerning medical studies in Part 21
7 of Article VIII of the Code of Civil Procedure, except that the
8 Department may disclose information and documents to a federal,
9 State, or local law enforcement agency pursuant to a subpoena
10 in an ongoing criminal investigation or to a health care
11 licensing body of this State or another state or jurisdiction
12 pursuant to an official request made by that licensing body.
13 Furthermore, information and documents disclosed to a federal,
14 State, or local law enforcement agency may be used by that
15 agency only for the investigation and prosecution of a criminal
16 offense, or, in the case of disclosure to a health care
17 licensing body, only for investigations and disciplinary
18 action proceedings with regard to a license. Information and
19 documents disclosed to the Department of Public Health may be
20 used by that Department only for investigation and disciplinary
21 action regarding the license of a health care institution
22 licensed by the Department of Public Health.

23 (C) Immunity from prosecution. Any individual or
24 organization acting in good faith, and not in a wilful and
25 wanton manner, in complying with this Act by providing any
26 report or other information to the Disciplinary Board or a peer

1 review committee, or assisting in the investigation or
2 preparation of such information, or by voluntarily reporting to
3 the Disciplinary Board or a peer review committee information
4 regarding alleged errors or negligence by a person licensed
5 under this Act, or by participating in proceedings of the
6 Disciplinary Board or a peer review committee, or by serving as
7 a member of the Disciplinary Board or a peer review committee,
8 shall not, as a result of such actions, be subject to criminal
9 prosecution or civil damages.

10 (D) Indemnification. Members of the Disciplinary Board,
11 the Medical Coordinators, the Disciplinary Board's attorneys,
12 the medical investigative staff, physicians retained under
13 contract to assist and advise the medical coordinators in the
14 investigation, and authorized clerical staff shall be
15 indemnified by the State for any actions occurring within the
16 scope of services on the Disciplinary Board, done in good faith
17 and not wilful and wanton in nature. The Attorney General shall
18 defend all such actions unless he or she determines either that
19 there would be a conflict of interest in such representation or
20 that the actions complained of were not in good faith or were
21 wilful and wanton.

22 Should the Attorney General decline representation, the
23 member shall have the right to employ counsel of his or her
24 choice, whose fees shall be provided by the State, after
25 approval by the Attorney General, unless there is a
26 determination by a court that the member's actions were not in

1 good faith or were wilful and wanton.

2 The member must notify the Attorney General within 7 days
3 of receipt of notice of the initiation of any action involving
4 services of the Disciplinary Board. Failure to so notify the
5 Attorney General shall constitute an absolute waiver of the
6 right to a defense and indemnification.

7 The Attorney General shall determine within 7 days after
8 receiving such notice, whether he or she will undertake to
9 represent the member.

10 (E) Deliberations of Disciplinary Board. Upon the receipt
11 of any report called for by this Act, other than those reports
12 of impaired persons licensed under this Act required pursuant
13 to the rules of the Disciplinary Board, the Disciplinary Board
14 shall notify in writing, by certified mail, the person who is
15 the subject of the report. Such notification shall be made
16 within 30 days of receipt by the Disciplinary Board of the
17 report.

18 The notification shall include a written notice setting
19 forth the person's right to examine the report. Included in
20 such notification shall be the address at which the file is
21 maintained, the name of the custodian of the reports, and the
22 telephone number at which the custodian may be reached. The
23 person who is the subject of the report shall submit a written
24 statement responding, clarifying, adding to, or proposing the
25 amending of the report previously filed. The person who is the
26 subject of the report shall also submit with the written

1 statement any medical records related to the report. The
2 statement and accompanying medical records shall become a
3 permanent part of the file and must be received by the
4 Disciplinary Board no more than 30 days after the date on which
5 the person was notified by the Disciplinary Board of the
6 existence of the original report.

7 The Disciplinary Board shall review all reports received by
8 it, together with any supporting information and responding
9 statements submitted by persons who are the subject of reports.
10 The review by the Disciplinary Board shall be in a timely
11 manner but in no event, shall the Disciplinary Board's initial
12 review of the material contained in each disciplinary file be
13 less than 61 days nor more than 180 days after the receipt of
14 the initial report by the Disciplinary Board.

15 When the Disciplinary Board makes its initial review of the
16 materials contained within its disciplinary files, the
17 Disciplinary Board shall, in writing, make a determination as
18 to whether there are sufficient facts to warrant further
19 investigation or action. Failure to make such determination
20 within the time provided shall be deemed to be a determination
21 that there are not sufficient facts to warrant further
22 investigation or action.

23 Should the Disciplinary Board find that there are not
24 sufficient facts to warrant further investigation, or action,
25 the report shall be accepted for filing and the matter shall be
26 deemed closed and so reported to the Secretary. The Secretary

1 shall then have 30 days to accept the Medical Disciplinary
2 Board's decision or request further investigation. The
3 Secretary shall inform the Board in writing of the decision to
4 request further investigation, including the specific reasons
5 for the decision. The individual or entity filing the original
6 report or complaint and the person who is the subject of the
7 report or complaint shall be notified in writing by the
8 Secretary of any final action on their report or complaint.

9 (F) Summary reports. The Disciplinary Board shall prepare,
10 on a timely basis, but in no event less than once every other
11 month, a summary report of final actions taken upon
12 disciplinary files maintained by the Disciplinary Board. The
13 summary reports shall be made available to the public upon
14 request and payment of the fees set by the Department. This
15 publication may be made available to the public on the
16 Department's Internet website.

17 (G) Any violation of this Section shall be a Class A
18 misdemeanor.

19 (H) If any such person violates the provisions of this
20 Section an action may be brought in the name of the People of
21 the State of Illinois, through the Attorney General of the
22 State of Illinois, for an order enjoining such violation or for
23 an order enforcing compliance with this Section. Upon filing of
24 a verified petition in such court, the court may issue a
25 temporary restraining order without notice or bond and may
26 preliminarily or permanently enjoin such violation, and if it

1 is established that such person has violated or is violating
2 the injunction, the court may punish the offender for contempt
3 of court. Proceedings under this paragraph shall be in addition
4 to, and not in lieu of, all other remedies and penalties
5 provided for by this Section.

6 (Source: P.A. 94-677, eff. 8-25-05; 95-639, eff. 10-5-07.)

7 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

8 (Section scheduled to be repealed on December 31, 2010)

9 Sec. 36. Upon the motion of either the Department or the
10 Disciplinary Board or upon the verified complaint in writing of
11 any person setting forth facts which, if proven, would
12 constitute grounds for suspension or revocation under Section
13 22 of this Act, the Department shall investigate the actions of
14 any person, so accused, who holds or represents that they hold
15 a license. Such person is hereinafter called the accused.

16 The Department shall, before suspending, revoking, placing
17 on probationary status, or taking any other disciplinary action
18 as the Department may deem proper with regard to any license at
19 least 30 days prior to the date set for the hearing, notify the
20 accused in writing of any charges made and the time and place
21 for a hearing of the charges before the Disciplinary Board,
22 direct them to file their written answer thereto to the
23 Disciplinary Board under oath within 20 days after the service
24 on them of such notice and inform them that if they fail to
25 file such answer default will be taken against them and their

1 license may be suspended, revoked, placed on probationary
2 status, or have other disciplinary action, including limiting
3 the scope, nature or extent of their practice, as the
4 Department may deem proper taken with regard thereto.

5 Where a physician has been found, upon complaint and
6 investigation of the Department, and after hearing, to have
7 performed an abortion procedure in a wilful and wanton manner
8 upon a woman who was not pregnant at the time such abortion
9 procedure was performed, the Department shall automatically
10 revoke the license of such physician to practice medicine in
11 Illinois.

12 Such written notice and any notice in such proceedings
13 thereafter may be served by delivery of the same, personally,
14 to the accused person, or by mailing the same by registered or
15 certified mail to the address last theretofore specified by the
16 accused in their last notification to the Department.

17 All information gathered by the Department during its
18 investigation including information subpoenaed under Section
19 23 or 38 of this Act and the investigative file shall be kept
20 for the confidential use of the Secretary, Disciplinary Board,
21 the Medical Coordinators, persons employed by contract to
22 advise the Medical Coordinator or the Department, the
23 Disciplinary Board's attorneys, the medical investigative
24 staff, and authorized clerical staff, as provided in this Act
25 and shall be afforded the same status as is provided
26 information concerning medical studies in Part 21 of Article

1 VIII of the Code of Civil Procedure, except that the Department
2 may disclose information and documents to a federal, State, or
3 local law enforcement agency pursuant to a subpoena in an
4 ongoing criminal investigation to a health care licensing body
5 of this State or another state or jurisdiction pursuant to an
6 official request made by that licensing body. Furthermore,
7 information and documents disclosed to a federal, State, or
8 local law enforcement agency may be used by that agency only
9 for the investigation and prosecution of a criminal offense or,
10 in the case of disclosure to a health care licensing body, only
11 for investigations and disciplinary action proceedings with
12 regard to a license issued by that licensing body.

13 (Source: P.A. 94-677, eff. 8-25-05.)

14 Section 35. The Nursing Home Administrators Licensing and
15 Disciplinary Act is amended by changing Section 17 and adding
16 Sections 17.1 and 38 as follows:

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

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

19 (Section scheduled to be repealed on January 1, 2018)

20 Sec. 17. Grounds for disciplinary action.

21 (a) The Department may impose fines not to exceed \$10,000
22 or may refuse to issue or to renew, or may revoke, suspend,
23 place on probation, censure, reprimand or take other
24 disciplinary or non-disciplinary action with regard to the

1 license of any person, for any one or combination of the
2 following causes:

3 (1) Intentional material misstatement in furnishing
4 information to the Department.

5 (2) Conviction of or entry of a plea of guilty or nolo
6 contendere to any crime that is a felony under the laws of
7 the United States or any state or territory thereof or a
8 misdemeanor of which an essential element is dishonesty or
9 that is directly related to the practice of the profession
10 of nursing home administration.

11 (3) Making any misrepresentation for the purpose of
12 obtaining a license, or violating any provision of this
13 Act.

14 (4) Immoral conduct in the commission of any act, such
15 as sexual abuse or sexual misconduct, related to the
16 licensee's practice.

17 (5) Failing to respond within 30 days, to a written
18 request made by the Department for information.

19 (6) Engaging in dishonorable, unethical or
20 unprofessional conduct of a character likely to deceive,
21 defraud or harm the public.

22 (7) Habitual use or addiction to alcohol, narcotics,
23 stimulants, or any other chemical agent or drug which
24 results in the inability to practice with reasonable
25 judgment, skill or safety.

26 (8) Discipline by another U.S. jurisdiction if at least

1 one of the grounds for the discipline is the same or
2 substantially equivalent to those set forth herein.

3 (9) A finding by the Department that the licensee,
4 after having his or her license placed on probationary
5 status has violated the terms of probation.

6 (10) Willfully making or filing false records or
7 reports in his or her practice, including but not limited
8 to false records filed with State agencies or departments.

9 (11) Physical illness, mental illness, or other
10 impairment or disability, including, but not limited to,
11 deterioration through the aging process, or loss of motor
12 skill that results in the inability to practice the
13 profession with reasonable judgment, skill or safety.

14 (12) Disregard or violation of this Act or of any rule
15 issued pursuant to this Act.

16 (13) Aiding or abetting another in the violation of
17 this Act or any rule or regulation issued pursuant to this
18 Act.

19 (14) Allowing one's license to be used by an unlicensed
20 person.

21 (15) (Blank).

22 (16) Professional incompetence in the practice of
23 nursing home administration.

24 (17) Conviction of a violation of Section 12-19 of the
25 Criminal Code of 1961 for the abuse and gross neglect of a
26 long term care facility resident.

1 (18) Violation of the Nursing Home Care Act or of any
2 rule issued under the Nursing Home Care Act. A final
3 adjudication of a Type "AA" violation of the Nursing Home
4 Care Act made by the Illinois Department of Public Health,
5 as identified by rule, relating to the hiring, training,
6 planning, organizing, directing, or supervising the
7 operation of a nursing home and a licensee's failure to
8 comply with this Act or the rules adopted under this Act,
9 shall create a rebuttable presumption of a violation of
10 this subsection.

11 (19) Failure to report to the Department any adverse
12 final action taken against the licensee by a licensing
13 authority of another state, territory of the United States,
14 or foreign country; or by any governmental or law
15 enforcement agency; or by any court for acts or conduct
16 similar to acts or conduct that would constitute grounds
17 for disciplinary action under this Section.

18 (20) Failure to report to the Department the surrender
19 of a license or authorization to practice as a nursing home
20 administrator in another state or jurisdiction for acts or
21 conduct similar to acts or conduct that would constitute
22 grounds for disciplinary action under this Section.

23 (21) Failure to report to the Department any adverse
24 judgment, settlement, or award arising from a liability
25 claim related to acts or conduct similar to acts or conduct
26 that would constitute grounds for disciplinary action

1 under this Section.

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 5 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, may
19 adopt rules which set forth standards to be used in determining
20 what constitutes:

21 (i) when a person will be deemed sufficiently
22 rehabilitated to warrant the public trust;

23 (ii) dishonorable, unethical or unprofessional conduct
24 of a character likely to deceive, defraud, or harm the
25 public;

26 (iii) immoral conduct in the commission of any act

1 related to the licensee's practice; and

2 (iv) professional incompetence in the practice of
3 nursing home administration.

4 However, no such rule shall be admissible into evidence in
5 any civil action except for review of a licensing or other
6 disciplinary action under this Act.

7 In enforcing this Section, the Department or Board, upon a
8 showing of a possible violation, may compel any individual
9 licensed to practice under this Act, or who has applied for
10 licensure pursuant to this Act, to submit to a mental or
11 physical examination, or both, as required by and at the
12 expense of the Department. The examining physician or
13 physicians shall be those specifically designated by the
14 Department or Board. The Department or Board may order the
15 examining physician to present testimony concerning this
16 mental or physical examination of the licensee or applicant. No
17 information shall be excluded by reason of any common law or
18 statutory privilege relating to communications between the
19 licensee or applicant and the examining physician. The
20 individual to be examined may have, at his or her own expense,
21 another physician of his or her choice present during all
22 aspects of the examination. Failure of any individual to submit
23 to mental or physical examination, when directed, shall be
24 grounds for suspension of his or her license until such time as
25 the individual submits to the examination if the Department
26 finds, after notice and hearing, that the refusal to submit to

1 the examination was without reasonable cause.

2 If the Department or Board finds an individual unable to
3 practice because of the reasons set forth in this Section, the
4 Department or Board shall require such individual to submit to
5 care, counseling, or treatment by physicians approved or
6 designated by the Department or Board, as a condition, term, or
7 restriction for continued, reinstated, or renewed licensure to
8 practice; or in lieu of care, counseling, or treatment, the
9 Department may file, or the Board may recommend to the
10 Department to file, a complaint to immediately suspend, revoke,
11 or otherwise discipline the license of the individual. Any
12 individual whose license was granted pursuant to this Act or
13 continued, reinstated, renewed, disciplined or supervised,
14 subject to such terms, conditions or restrictions who shall
15 fail to comply with such terms, conditions or restrictions
16 shall be referred to the Secretary for a determination as to
17 whether the licensee shall have his or her license suspended
18 immediately, pending a hearing by the Department. In instances
19 in which the Secretary immediately suspends a license under
20 this Section, a hearing upon such person's license must be
21 convened by the Board within 30 days after such suspension and
22 completed without appreciable delay. The Department and Board
23 shall have the authority to review the subject administrator's
24 record of treatment and counseling regarding the impairment, to
25 the extent permitted by applicable federal statutes and
26 regulations safeguarding the confidentiality of medical

1 records.

2 An individual licensed under this Act, affected under this
3 Section, shall be afforded an opportunity to demonstrate to the
4 Department or Board that he or she can resume practice in
5 compliance with acceptable and prevailing standards under the
6 provisions of his or her license.

7 (b) Any individual or organization acting in good faith,
8 and not in a wilful and wanton manner, in complying with this
9 Act by providing any report or other information to the
10 Department, or assisting in the investigation or preparation of
11 such information, or by participating in proceedings of the
12 Department, or by serving as a member of the Board, shall not,
13 as a result of such actions, be subject to criminal prosecution
14 or civil damages.

15 (c) Members of the Board, and persons retained under
16 contract to assist and advise in an investigation, shall be
17 indemnified by the State for any actions occurring within the
18 scope of services on or for the Board, done in good faith and
19 not wilful and wanton in nature. The Attorney General shall
20 defend all such actions unless he or she determines either that
21 there would be a conflict of interest in such representation or
22 that the actions complained of were not in good faith or were
23 wilful and wanton.

24 Should the Attorney General decline representation, a
25 person entitled to indemnification under this Section shall
26 have the right to employ counsel of his or her choice, whose

1 fees shall be provided by the State, after approval by the
2 Attorney General, unless there is a determination by a court
3 that the member's actions were not in good faith or were wilful
4 and wanton.

5 A person entitled to indemnification under this Section
6 must notify the Attorney General within 7 days of receipt of
7 notice of the initiation of any action involving services of
8 the Board. Failure to so notify the Attorney General shall
9 constitute an absolute waiver of the right to a defense and
10 indemnification.

11 The Attorney General shall determine within 7 days after
12 receiving such notice, whether he or she will undertake to
13 represent a person entitled to indemnification under this
14 Section.

15 (d) The determination by a circuit court that a licensee is
16 subject to involuntary admission or judicial admission as
17 provided in the Mental Health and Developmental Disabilities
18 Code, as amended, operates as an automatic suspension. Such
19 suspension will end only upon a finding by a court that the
20 patient is no longer subject to involuntary admission or
21 judicial admission and issues an order so finding and
22 discharging the patient; and upon the recommendation of the
23 Board to the Secretary that the licensee be allowed to resume
24 his or her practice.

25 (e) The Department may refuse to issue or may suspend the
26 license of any person who fails to file a return, or to pay the

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

6 (f) The Department of Public Health shall transmit to the
7 Department a list of those facilities which receive an "A"
8 violation as defined in Section 1-129 of the Nursing Home Care
9 Act.

10 (Source: P.A. 95-703, eff. 12-31-07.)

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

12 (Section scheduled to be repealed on January 1, 2018)

13 Sec. 17. Grounds for disciplinary action.

14 (a) The Department may impose fines not to exceed \$10,000
15 or may refuse to issue or to renew, or may revoke, suspend,
16 place on probation, censure, reprimand or take other
17 disciplinary or non-disciplinary action with regard to the
18 license of any person, for any one or combination of the
19 following causes:

20 (1) Intentional material misstatement in furnishing
21 information to the Department.

22 (2) Conviction of or entry of a plea of guilty or nolo
23 contendere to any crime that is a felony under the laws of
24 the United States or any state or territory thereof or a
25 misdemeanor of which an essential element is dishonesty or

1 that is directly related to the practice of the profession
2 of nursing home administration.

3 (3) Making any misrepresentation for the purpose of
4 obtaining a license, or violating any provision of this
5 Act.

6 (4) Immoral conduct in the commission of any act, such
7 as sexual abuse or sexual misconduct, related to the
8 licensee's practice.

9 (5) Failing to respond within 30 days, to a written
10 request made by the Department for information.

11 (6) Engaging in dishonorable, unethical or
12 unprofessional conduct of a character likely to deceive,
13 defraud or harm the public.

14 (7) Habitual use or addiction to alcohol, narcotics,
15 stimulants, or any other chemical agent or drug which
16 results in the inability to practice with reasonable
17 judgment, skill or safety.

18 (8) Discipline by another U.S. jurisdiction if at least
19 one of the grounds for the discipline is the same or
20 substantially equivalent to those set forth herein.

21 (9) A finding by the Department that the licensee,
22 after having his or her license placed on probationary
23 status has violated the terms of probation.

24 (10) Willfully making or filing false records or
25 reports in his or her practice, including but not limited
26 to false records filed with State agencies or departments.

1 (11) Physical illness, mental illness, or other
2 impairment or disability, including, but not limited to,
3 deterioration through the aging process, or loss of motor
4 skill that results in the inability to practice the
5 profession with reasonable judgment, skill or safety.

6 (12) Disregard or violation of this Act or of any rule
7 issued pursuant to this Act.

8 (13) Aiding or abetting another in the violation of
9 this Act or any rule or regulation issued pursuant to this
10 Act.

11 (14) Allowing one's license to be used by an unlicensed
12 person.

13 (15) (Blank).

14 (16) Professional incompetence in the practice of
15 nursing home administration.

16 (17) Conviction of a violation of Section 12-19 of the
17 Criminal Code of 1961 for the abuse and gross neglect of a
18 long term care facility resident.

19 (18) Violation of the Nursing Home Care Act or the
20 MR/DD Community Care Act or of any rule issued under the
21 Nursing Home Care Act or the MR/DD Community Care Act. A
22 final adjudication of a Type "AA" violation of the Nursing
23 Home Care Act made by the Illinois Department of Public
24 Health, as identified by rule, relating to the hiring,
25 training, planning, organizing, directing, or supervising
26 the operation of a nursing home and a licensee's failure to

1 comply with this Act or the rules adopted under this Act,
2 shall create a rebuttable presumption of a violation of
3 this subsection.

4 (19) Failure to report to the Department any adverse
5 final action taken against the licensee by a licensing
6 authority of another state, territory of the United States,
7 or foreign country; or by any governmental or law
8 enforcement agency; or by any court for acts or conduct
9 similar to acts or conduct that would constitute grounds
10 for disciplinary action under this Section.

11 (20) Failure to report to the Department the surrender
12 of a license or authorization to practice as a nursing home
13 administrator in another state or jurisdiction for acts or
14 conduct similar to acts or conduct that would constitute
15 grounds for disciplinary action under this Section.

16 (21) Failure to report to the Department any adverse
17 judgment, settlement, or award arising from a liability
18 claim related to acts or conduct similar to acts or conduct
19 that would constitute grounds for disciplinary action
20 under this Section.

21 All proceedings to suspend, revoke, place on probationary
22 status, or take any other disciplinary action as the Department
23 may deem proper, with regard to a license on any of the
24 foregoing grounds, must be commenced within 5 years next after
25 receipt by the Department of (i) a complaint alleging the
26 commission of or notice of the conviction order for any of the

1 acts described herein or (ii) a referral for investigation
2 under Section 3-108 of the Nursing Home Care Act.

3 The entry of an order or judgment by any circuit court
4 establishing that any person holding a license under this Act
5 is a person in need of mental treatment operates as a
6 suspension of that license. That person may resume their
7 practice only upon the entry of a Department order based upon a
8 finding by the Board that they have been determined to be
9 recovered from mental illness by the court and upon the Board's
10 recommendation that they be permitted to resume their practice.

11 The Department, upon the recommendation of the Board, may
12 adopt rules which set forth standards to be used in determining
13 what constitutes:

14 (i) when a person will be deemed sufficiently
15 rehabilitated to warrant the public trust;

16 (ii) dishonorable, unethical or unprofessional conduct
17 of a character likely to deceive, defraud, or harm the
18 public;

19 (iii) immoral conduct in the commission of any act
20 related to the licensee's practice; and

21 (iv) professional incompetence in the practice of
22 nursing home administration.

23 However, no such rule shall be admissible into evidence in
24 any civil action except for review of a licensing or other
25 disciplinary action under this Act.

26 In enforcing this Section, the Department or Board, upon a

1 showing of a possible violation, may compel any individual
2 licensed to practice under this Act, or who has applied for
3 licensure pursuant to this Act, to submit to a mental or
4 physical examination, or both, as required by and at the
5 expense of the Department. The examining physician or
6 physicians shall be those specifically designated by the
7 Department or Board. The Department or Board may order the
8 examining physician to present testimony concerning this
9 mental or physical examination of the licensee or applicant. No
10 information shall be excluded by reason of any common law or
11 statutory privilege relating to communications between the
12 licensee or applicant and the examining physician. The
13 individual to be examined may have, at his or her own expense,
14 another physician of his or her choice present during all
15 aspects of the examination. Failure of any individual to submit
16 to mental or physical examination, when directed, shall be
17 grounds for suspension of his or her license until such time as
18 the individual submits to the examination if the Department
19 finds, after notice and hearing, that the refusal to submit to
20 the examination was without reasonable cause.

21 If the Department or Board finds an individual unable to
22 practice because of the reasons set forth in this Section, the
23 Department or Board shall require such individual to submit to
24 care, counseling, or treatment by physicians approved or
25 designated by the Department or Board, as a condition, term, or
26 restriction for continued, reinstated, or renewed licensure to

1 practice; or in lieu of care, counseling, or treatment, the
2 Department may file, or the Board may recommend to the
3 Department to file, a complaint to immediately suspend, revoke,
4 or otherwise discipline the license of the individual. Any
5 individual whose license was granted pursuant to this Act or
6 continued, reinstated, renewed, disciplined or supervised,
7 subject to such terms, conditions or restrictions who shall
8 fail to comply with such terms, conditions or restrictions
9 shall be referred to the Secretary for a determination as to
10 whether the licensee shall have his or her license suspended
11 immediately, pending a hearing by the Department. In instances
12 in which the Secretary immediately suspends a license under
13 this Section, a hearing upon such person's license must be
14 convened by the Board within 30 days after such suspension and
15 completed without appreciable delay. The Department and Board
16 shall have the authority to review the subject administrator's
17 record of treatment and counseling regarding the impairment, to
18 the extent permitted by applicable federal statutes and
19 regulations safeguarding the confidentiality of medical
20 records.

21 An individual licensed under this Act, affected under this
22 Section, shall be afforded an opportunity to demonstrate to the
23 Department or Board that he or she can resume practice in
24 compliance with acceptable and prevailing standards under the
25 provisions of his or her license.

26 (b) Any individual or organization acting in good faith,

1 and not in a wilful and wanton manner, in complying with this
2 Act by providing any report or other information to the
3 Department, or assisting in the investigation or preparation of
4 such information, or by participating in proceedings of the
5 Department, or by serving as a member of the Board, shall not,
6 as a result of such actions, be subject to criminal prosecution
7 or civil damages.

8 (c) Members of the Board, and persons retained under
9 contract to assist and advise in an investigation, shall be
10 indemnified by the State for any actions occurring within the
11 scope of services on or for the Board, done in good faith and
12 not wilful and wanton in nature. The Attorney General shall
13 defend all such actions unless he or she determines either that
14 there would be a conflict of interest in such representation or
15 that the actions complained of were not in good faith or were
16 wilful and wanton.

17 Should the Attorney General decline representation, a
18 person entitled to indemnification under this Section shall
19 have the right to employ counsel of his or her choice, whose
20 fees shall be provided by the State, after approval by the
21 Attorney General, unless there is a determination by a court
22 that the member's actions were not in good faith or were wilful
23 and wanton.

24 A person entitled to indemnification under this Section
25 must notify the Attorney General within 7 days of receipt of
26 notice of the initiation of any action involving services of

1 the Board. Failure to so notify the Attorney General shall
2 constitute an absolute waiver of the right to a defense and
3 indemnification.

4 The Attorney General shall determine within 7 days after
5 receiving such notice, whether he or she will undertake to
6 represent a person entitled to indemnification under this
7 Section.

8 (d) The determination by a circuit court that a licensee is
9 subject to involuntary admission or judicial admission as
10 provided in the Mental Health and Developmental Disabilities
11 Code, as amended, operates as an automatic suspension. Such
12 suspension will end only upon a finding by a court that the
13 patient is no longer subject to involuntary admission or
14 judicial admission and issues an order so finding and
15 discharging the patient; and upon the recommendation of the
16 Board to the Secretary that the licensee be allowed to resume
17 his or her practice.

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

25 (f) The Department of Public Health shall transmit to the
26 Department a list of those facilities which receive an "A"

1 violation as defined in Section 1-129 of the Nursing Home Care
2 Act.

3 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10.)

4 (225 ILCS 70/17.1 new)

5 Sec. 17.1. Reports of violations of Act or other conduct.

6 (a) The owner or licensee of a long term care facility
7 licensed under the Nursing Home Care Act who employs or
8 contracts with a licensee under this Act shall report to the
9 Department any instance of which he or she has knowledge
10 arising in connection with operations of the health care
11 institution, including the administration of any law by the
12 institution, in which a licensee under this Act has either
13 committed an act or acts which may constitute a violation of
14 this Act or unprofessional conduct related directly to patient
15 care, or which may indicate that the licensee may be mentally
16 or physically disabled in such a manner as to endanger patients
17 under that licensee's care. Additionally, every nursing home
18 shall report to the Department any instance when a licensee is
19 terminated for cause which would constitute a violation of this
20 Act. The Department may take disciplinary or non-disciplinary
21 action if the termination is based upon unprofessional conduct
22 related to planning, organizing, directing, or supervising the
23 operation of a nursing home as defined by this Act or other
24 conduct by the licensee that would be a violation of this Act
25 or Rules.

1 For the purposes of this subsection, "owner" does not mean
2 the owner of the real estate or physical plant who does not
3 hold management or operational control of the licensed long
4 term care facility.

5 (b) Any insurance company that offers policies of
6 professional liability insurance to licensees, or any other
7 entity that seeks to indemnify the professional liability of a
8 licensee, shall report the settlement of any claim or adverse
9 final judgment rendered in any action that alleged negligence
10 in planning, organizing, directing, or supervising the
11 operation of a nursing home by the licensee.

12 (c) The State's Attorney of each county shall report to the
13 Department each instance in which a licensee is convicted of or
14 enters a plea of guilty or nolo contendere to any crime that is
15 a felony, or of which an essential element is dishonesty, or
16 that is directly related to the practice of the profession of
17 nursing home administration.

18 (d) Any agency, board, commission, department, or other
19 instrumentality of the government of the State of Illinois
20 shall report to the Department any instance arising in
21 connection with the operations of the agency, including the
22 administration of any law by the agency, in which a licensee
23 under this Act has either committed an act or acts which may
24 constitute a violation of this Act or unprofessional conduct
25 related directly to planning, organizing, directing or
26 supervising the operation of a nursing home, or which may

1 indicate that a licensee may be mentally or physically disabled
2 in such a manner as to endanger others.

3 (e) All reports required by items (19), (20), and (21) of
4 subsection (a) of Section 17 and by this Section 17.1 shall be
5 submitted to the Department in a timely fashion. The reports
6 shall be filed in writing within 60 days after a determination
7 that a report is required under this Section. All reports shall
8 contain the following information:

9 (1) The name, address, and telephone number of the
10 person making the report.

11 (2) The name, address, and telephone number of the
12 person who is the subject of the report.

13 (3) The name and date of birth of any person or persons
14 whose treatment is a subject of the report, or other means
15 of identification if that information is not available, and
16 identification of the nursing home facility where the care
17 at issue in the report was rendered.

18 (4) A brief description of the facts which gave rise to
19 the issuance of the report, including the dates of any
20 occurrences deemed to necessitate the filing of the report.

21 (5) If court action is involved, the identity of the
22 court in which the action is filed, along with the docket
23 number and the date the action was filed.

24 (6) Any further pertinent information that the
25 reporting party deems to be an aid in evaluating the
26 report.

1 If the Department receives a written report concerning an
2 incident required to be reported under item (19), (20), or (21)
3 of subsection (a) of Section 17, then the licensee's failure to
4 report the incident to the Department within 60 days may not be
5 the sole ground for any disciplinary action against the
6 licensee.

7 (f) Any individual or organization acting in good faith,
8 and not in a wilful and wanton manner, in complying with this
9 Section by providing any report or other information to the
10 Department, by assisting in the investigation or preparation of
11 such information, by voluntarily reporting to the Department
12 information regarding alleged errors or negligence by a
13 licensee, or by participating in proceedings of the Department,
14 shall not, as a result of such actions, be subject to criminal
15 prosecution or civil damages.

16 (g) Upon the receipt of any report required by this
17 Section, the Department shall notify in writing, by certified
18 mail, the person who is the subject of the report. The
19 notification shall be made within 30 days after the
20 Department's receipt of the report.

21 The notification shall include a written notice setting
22 forth the person's right to examine the report. The
23 notification shall also include the address at which the file
24 is maintained, the name of the custodian of the file, and the
25 telephone number at which the custodian may be reached. The
26 person who is the subject of the report shall submit a written

1 statement responding, clarifying, adding to, or proposing the
2 amending of the report previously filed. The statement shall
3 become a permanent part of the file and must be received by the
4 Department no more than 30 days after the date on which the
5 person was notified by the Department of the existence of the
6 original report.

7 The Department shall review a report received by it,
8 together with any supporting information and responding
9 statements submitted by the person who is the subject of the
10 report. The review by the Department shall be in a timely
11 manner, but in no event shall the Department's initial review
12 of the material contained in each disciplinary file last less
13 than 61 days nor more than 180 days after the receipt of the
14 initial report by the Department.

15 When the Department makes its initial review of the
16 materials contained within its disciplinary files, the
17 Department shall, in writing, make a determination as to
18 whether there are sufficient facts to warrant further
19 investigation or action. Failure to make such a determination
20 within the time provided shall be deemed to be a determination
21 that there are not sufficient facts to warrant further
22 investigation or action. The Department shall notify the person
23 who is the subject of the report of any final action on the
24 report.

25 (h) A violation of this Section is a Class A misdemeanor.

26 (i) If any person or entity violates this Section, then an

1 action may be brought in the name of the People of the State of
2 Illinois, through the Attorney General of the State of
3 Illinois, for an order enjoining the violation or for an order
4 enforcing compliance with this Section. Upon filing of a
5 verified petition in the court, the court may issue a temporary
6 restraining order without notice or bond and may preliminarily
7 or permanently enjoin the violation. If it is established that
8 the person or entity has violated or is violating the
9 injunction, the court may punish the offender for contempt of
10 court. Proceedings under this subsection (i) shall be in
11 addition to, and not in lieu of, all other remedies and
12 penalties provided for by this Section.

13 (225 ILCS 70/38 new)

14 Sec. 38. Whistleblower protection. Any individual or
15 organization acting in good faith, and not in a willful and
16 wanton manner, in complying with this Act by providing any
17 report or other information to the Department, or assisting in
18 the investigation or preparation of such information, or by
19 voluntarily reporting to the Department information regarding
20 alleged errors or negligence by a licensee, or by participating
21 in proceedings of the Department, shall not, as a result of
22 such actions, be subject to criminal prosecution or civil
23 damages.

24 Section 40. The Illinois Public Aid Code is amended by

1 changing Section 5-5.12 and adding Sections 5-27 and 5-28 as
2 follows:

3 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

4 Sec. 5-5.12. Pharmacy payments.

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

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

20 (c) (Blank).

21 (d) The Department shall not impose requirements for prior
22 approval based on a preferred drug list for anti-retroviral,
23 anti-hemophilic factor concentrates, or any atypical
24 antipsychotics, conventional antipsychotics, or
25 anticonvulsants used for the treatment of serious mental

1 illnesses until 30 days after it has conducted a study of the
2 impact of such requirements on patient care and submitted a
3 report to the Speaker of the House of Representatives and the
4 President of the Senate.

5 (e) The Department shall cooperate with the Department of
6 Public Health and the Department of Human Services Division of
7 Mental Health in identifying psychotropic medications that,
8 when given in a particular form, manner, duration, or frequency
9 (including "as needed") in a dosage, or in conjunction with
10 other psychotropic medications to a nursing home resident, may
11 constitute a chemical restraint or an "unnecessary drug" as
12 defined by the Nursing Home Care Act or Titles XVIII and XIX of
13 the Social Security Act and the implementing rules and
14 regulations. The Department shall require prior approval for
15 any such medication prescribed for a nursing home resident that
16 appears to be a chemical restraint or an unnecessary drug. The
17 Department shall consult with the Department of Human Services
18 Division of Mental Health in developing a protocol and criteria
19 for deciding whether to grant such prior approval.

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

21 (305 ILCS 5/5-27 new)

22 Sec. 5-27. Nursing home workgroup.

23 (a) The Director of the Department of Healthcare and Family
24 Services shall convene a workgroup composed of representatives
25 of nursing home resident advocates, representatives of long

1 term care providers, representatives of labor and
2 employee-representation organizations, and all relevant State
3 agencies, for the purpose of developing a proposal to be
4 presented to the General Assembly no later than November 1,
5 2010. The proposal shall address the following issues:

6 (1) Staffing standards necessary to the provision of
7 care and services and the preservation of resident safety.

8 (2) A comprehensive rate review giving consideration
9 to adopting an evidence-based rate methodology.

10 (3) The development of a provider assessment.

11 (b) This Section is repealed, and the workgroup shall be
12 dissolved, on January 1, 2011.

13 (305 ILCS 5/5-28 new)

14 Sec. 5-28. Community transition resources. The Department
15 of Healthcare and Family Services, in collaboration with all
16 relevant agencies, shall develop a Community Transition Plan to
17 allow nursing facility residents who are determined to be
18 appropriate for transition to the community to access or
19 acquire resources to support the transition. These strategies
20 may include, but need not be limited to, enhancement of the
21 Community Home Maintenance Allowance, retention of income from
22 work, and incorporation of community transition services into
23 existing home and community-based waiver programs.

24 Section 93. Intent. Nothing in this Act is intended to

1 apply to any facility that is subject to licensure under the
2 MR/DD Community Care Act on or after July 1, 2010.

3 Section 95. No acceleration or delay. Where this Act makes
4 changes in a statute that is represented in this Act by text
5 that is not yet or no longer in effect (for example, a Section
6 represented by multiple versions), the use of that text does
7 not accelerate or delay the taking effect of (i) the changes
8 made by this Act or (ii) provisions derived from any other
9 Public Act.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."