



Rep. Barbara Flynn Currie

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09600SB0326ham001

LRB096 03655 DRJ 41340 a

1 AMENDMENT TO SENATE BILL 326

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 326 by replacing  
3 everything after the enacting clause with the following:

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

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program.

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

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

15 (1) "Access" has the same meaning as in Section 1-104  
16 of the Nursing Home Care Act, as now or hereafter amended;

1 that is, it means the right to:

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

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

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

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

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

19 (2) "Long Term Care Facility" means (i) any facility as  
20 defined by Section 1-113 of the Nursing Home Care Act, as  
21 now or hereafter amended; and (ii) any skilled nursing  
22 facility or a nursing facility which meets the requirements  
23 of Section 1819(a), (b), (c), and (d) or Section 1919(a),  
24 (b), (c), and (d) of the Social Security Act, as now or  
25 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)  
26 and 42 U.S.C. 1396r(a), (b), (c), and (d)).

1           (2.5) "Assisted living establishment" and "shared  
2 housing establishment" have the meanings given those terms  
3 in Section 10 of the Assisted Living and Shared Housing  
4 Act.

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

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

13           (3.1) "Ombudsman" means any designated representative  
14 of a regional long term care ombudsman program; provided  
15 that the representative, whether he is paid for or  
16 volunteers his ombudsman services, shall be qualified and  
17 designated by the Office to perform the duties of an  
18 ombudsman as specified by the Department in rules and in  
19 accordance with the provisions of the Older Americans Act  
20 of 1965, as now or hereafter amended.

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

1 program shall be treated as a representative of the Office.

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

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

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

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

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

1 term care facility.

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

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

7 (B) Special Services and Amenities.

8 (C) Staffing.

9 (D) Facility Statistics and Resident Demographics.

10 (E) Ownership and Administration.

11 (F) Safety and Security.

12 (G) Meals and Nutrition.

13 (H) Rooms, Furnishings, and Equipment.

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

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

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

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

23 (d) Access and visitation rights.

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

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

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

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

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

1 administrative rules, to the resident's records.

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

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

16 (f) Business offenses.

17 (1) No person shall:

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

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



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

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

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

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

23               (2) the complainant, resident, witness, or employee of  
24               a long term care provider gives consent orally; and the  
25               consent is documented contemporaneously in writing in  
26               accordance with such requirements as the Department shall

1 establish; or

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

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

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

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

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

24 Section 10. The Department of Public Health Powers and  
25 Duties Law of the Civil Administrative Code of Illinois is

1 amended by changing Section 2310-130 as follows:

2 (20 ILCS 2310/2310-130) (was 20 ILCS 2310/55.82)

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

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

23 Beginning July 1, 2011, the Department shall employ a  
24 minimum of one surveyor for every 500 licensed long term care  
25 beds. Beginning July 1, 2012, the Department shall employ a

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

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

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

8 (20 ILCS 2630/7.5 new)

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

17 (1) Existence of the warrant.

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

21 Local issuing jurisdictions shall be aware that nursing  
22 facilities have residents who may be fragile or vulnerable or  
23 who may have a mental illness. When serving a warrant, law  
24 enforcement shall make every attempt to mitigate the adverse

1 impact on other facility residents.

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

4 (20 ILCS 3960/14.1)

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

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

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

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

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

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

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

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

24 (5) The failure to pay any fine imposed under this

1 Section within 30 days of its imposition.

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

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

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

26 (2) A permit holder who alters the scope of an approved

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

1 exceeded by more than \$1,000,000, an additional \$20,000 for  
2 each \$1,000,000, or fraction thereof, in excess of the  
3 approved permit amount.

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

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

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

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

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

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

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

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

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

22 (30 ILCS 105/5.589)

23 Sec. 5.589. The Equity Innovations in Long-term Care  
24 Quality ~~Demonstration Grants~~ Fund.

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

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

5 (30 ILCS 772/Act title)

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

8 (30 ILCS 772/1)

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

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

12 (30 ILCS 772/5)

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

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

2 (30 ILCS 772/10)

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

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

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

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

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

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

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

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

1 (30 ILCS 772/15)

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

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

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

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

20 (30 ILCS 772/20)

21 Sec. 20. Award of grants.

22 (a) Applications for grants must be made in a manner ~~on~~  
23 ~~forms~~ prescribed by the Director of Public Health by rule.  
24 Expenditures made in a manner with any grant, and the results



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

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

1 ~~medical school located at the Champaign-Urbana campus of the~~  
2 ~~University of Illinois.~~

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

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

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

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

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

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

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

13 ~~and~~

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

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

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

20 Section 25. The Nursing Home Care Act is amended by  
21 changing Sections 1-114.01, 1-117, 1-122, 1-129, 1-130, 2-104,  
22 2-106.1, 2-201.5, 2-201.6, 2-205, 3-103, 3-113, 3-117, 3-119,  
23 3-206, 3-206.01, 3-206.02, 3-212, 3-303, 3-303.2, 3-304.1,  
24 3-305, 3-306, 3-309, 3-310, 3-318, 3-402, 3-501, and 3-504 and  
25 by adding Sections 1-114.005, 1-120.3, 1-120.7, 1-128.5,

1 1-132, 2-104.3, 2-114, 2-201.7, 3-120, 3-202.05, 3-202.2a,  
2 3-202.2b, 3-304.2, 3-808, 3-809, and 3-810 as follows:

3 (210 ILCS 45/1-114.005 new)

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

9 (210 ILCS 45/1-114.01)

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

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

1       Community Protection Act.

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

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

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

14           (210 ILCS 45/1-117) (from Ch. 111 1/2, par. 4151-117)

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

24       (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)

23 Sec. 1-128.5. Type "AA" violation. A "Type 'AA' violation"

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

5 (210 ILCS 45/1-129) (from Ch. 111 1/2, par. 4151-129)

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

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

15 (210 ILCS 45/1-130) (from Ch. 111 1/2, par. 4151-130)

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

23 (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  
25 monitored by an institutional review board ~~committee~~ appointed

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

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



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

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

22 The institutional review board may exempt from ongoing  
23 review research or treatment initiated on a resident before the  
24 individual's admission to a facility and for which the board  
25 determines there is adequate ongoing oversight by another  
26 institutional review board. Nothing in this Section shall

1 prevent a facility, any facility employee, or any other person  
2 from assisting or participating in any experimental research on  
3 or treatment of a resident, if the research or treatment began  
4 before the person's admission to a facility, until the board  
5 has reviewed the research or treatment and decided to grant or  
6 deny approval or to exempt the research or treatment from  
7 ongoing review.

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

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

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

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

1 facility may charge a reasonable fee for duplication of a  
2 record.

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

4 (210 ILCS 45/2-104.3 new)

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

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

13 (b) The Department of Human Services, by rule, shall  
14 provide for a prohibition on conflicts of interest for  
15 pre-admission screeners. The rule shall provide for waiver of  
16 those conflicts by the Department of Human Services if the  
17 Department of Human Services determines that a scarcity of  
18 qualified pre-admission screeners exists in a given community  
19 and that, absent a waiver of conflict, an insufficient number  
20 of pre-admission screeners would be available. If a conflict is  
21 waived, the pre-admission screener shall disclose the conflict  
22 of interest to the screened individual in the manner provided  
23 for by rule of the Department of Human Services. For the  
24 purposes of this subsection, a "conflict of interest" includes,  
25 but is not limited to, the existence of a professional or

1 financial relationship between (i) a PAS-MH corporate or a  
2 PAS-MH agent performing the rescreening and (ii) a community  
3 provider or long-term care facility.

4 (210 ILCS 45/2-106.1)

5 Sec. 2-106.1. Drug treatment.

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

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

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

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

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

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

7 (210 ILCS 45/2-114 new)

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

15 (210 ILCS 45/2-201.5)

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

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

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

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

1 assistance necessary to avail himself or herself of any  
2 available services.

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

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

25 Upon the person entering the nursing facility, the  
26 Department of Human Services or its designee shall assist the



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

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

21 (b) In addition to the screening required by subsection  
22 (a), a facility, except for those licensed as long term care  
23 for under age 22 facilities, shall, within 24 hours after  
24 admission, request a criminal history background check  
25 pursuant to the Uniform Conviction Information Act for all  
26 persons age 18 or older seeking admission to the facility.

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

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

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

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

(1) Immediately notify the Department of State Police, in the form and manner required by the Department of State Police, in collaboration with the Department of Public Health, that the resident is an identified offender.

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

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

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

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

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

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

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

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

9 (210 ILCS 45/2-201.6)

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

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

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

24 (c) The Criminal History Report Analysis shall include, but  
25 not be limited to, ~~all of~~ the following:

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

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

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

8           (3.5) Copies of the identified offender's parole,  
9 mandatory supervised release, or probation orders.

10          (4) An interview with the identified offender.

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

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

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

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

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



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

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

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

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

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

18 (4) The Department of Public Health.

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

24 (f) The facility shall incorporate the Identified Offender  
25 Report and Recommendation ~~Criminal History Analysis Report~~  
26 into the identified offender's care plan created pursuant to 42

1 CFR 483.20.

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

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

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

16 (210 ILCS 45/2-201.7 new)

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

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

25 (b) In this Section, "mixed population facility" means a

1 facility that has more than 25 residents with a diagnosis of  
2 serious mental illness and residents 65 years of age or older.

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

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

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

1 measures to minimize the cost of the expanded criminal history  
2 background checks to the participating long term care  
3 facilities.

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

9 (210 ILCS 45/2-205) (from Ch. 111 1/2, par. 4152-205)

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

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

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

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

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

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

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

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

22           (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

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

25           (1) Application to operate a facility shall be made to

1 the Department on forms furnished by the Department.

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

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

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

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

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

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

22          (3) Each initial application shall be accompanied by a  
23 financial statement setting forth the financial condition  
24 of the applicant and by a statement from the unit of local  
25 government having zoning jurisdiction over the facility's  
26 location stating that the location of the facility is not

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

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

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

13 (210 ILCS 45/3-113) (from Ch. 111 1/2, par. 4153-113)

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



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

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

6 (210 ILCS 45/3-117) (from Ch. 111 1/2, par. 4153-117)

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

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

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

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

23 (4) Insufficient financial or other resources to  
24 operate and conduct the facility in accordance with  
25 standards promulgated by the Department under this Act and

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

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

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

24           (7) That the facility is in receivership and the  
25      proposed licensee has not submitted a specific detailed  
26      plan to bring the facility into compliance with the

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

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

5           (210 ILCS 45/3-119) (from Ch. 111 1/2, par. 4153-119)

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

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

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

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

24           (2) Conviction of the licensee, or of the person  
25           designated to manage or supervise the facility, of a

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

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

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

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

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

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

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

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

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

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

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

18           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 Illinois Department of Revenue,  
23 until such time as the requirements of any such tax Act are  
24 satisfied.

25           (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  
26 assessment. The security and safety assessment shall be

1 completed by the same licensed forensic psychologist who  
2 prepares Identified Offender Reports and Recommendations  
3 for identified offenders.

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

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

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

11 (5) Supervision and monitoring.

12 (6) Staffing levels.

13 (7) Quality assurance and improvement.

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

17 (A) The violence escalation cycle.

18 (B) Violence predicting factors.

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

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

23 (E) Strategies to avoid physical harm.

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

26 (G) Appropriate treatment to reduce violent

1 behavior.

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

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

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

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

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

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

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

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



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

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

12       (210 ILCS 45/3-202.05 new)

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

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

17           (1) registered nurses;

18           (2) licensed practical nurses;

19           (3) certified nurse assistants;

20           (4) psychiatric services rehabilitation aides;

21           (5) rehabilitation and therapy aides;

22           (6) psychiatric services rehabilitation coordinators;

23           (7) assistant directors of nursing;

24           (8) 50% of the Director of Nurses' time; and

25           (9) 30% of the Social Services Directors' time.

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

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

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

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

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

26       (3) Effective July 1, 2012, the minimum staffing ratios

1       shall be increased to 3.0 hours of nursing and personal  
2       care each day for a resident needing skilled care and 2.1  
3       hours of nursing and personal care each day for a resident  
4       needing intermediate care.

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

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

15       (210 ILCS 45/3-202.2a new)

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

1 restrictive setting based on the resident's care needs. The  
2 assessment shall be developed with the active participation of  
3 the resident and the resident's guardian or representative, as  
4 applicable.

5 (210 ILCS 45/3-202.2b new)

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

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

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

1 unexpired, has been issued.

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

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

26 (e) A long term care facility found to be out of compliance

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

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

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

24 (h) Certification requirements. The Department shall  
25 establish requirements for certification that augment current  
26 quality of care standards for long term care facilities serving

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

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

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

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

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

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

26 (5) Room selection and appropriateness of roommate



1       assignment.

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

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

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

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

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

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

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

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

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

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

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

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

25           (5) Begin a current course of training for nursing  
26 assistants, habilitation aides, or child care aides,

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

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

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

24 At the time of each regularly scheduled licensure  
25 survey, or at the time of a complaint investigation, the  
26 Department may require any nursing assistant, habilitation

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

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

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

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

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

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

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

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

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

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

1 be exempt from the requirements of this Section.

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

18 The Department's rules shall also provide for  
19 circumstances and procedures whereby any person who has  
20 received training that meets the requirements of this  
21 subsection shall not be required to undergo additional training  
22 if he or she is transferred to or obtains employment at a  
23 different facility or a facility other than a long-term care  
24 facility but remains continuously employed for pay as a nursing  
25 assistant, habilitation aide, or child care aide. Individuals  
26 who have performed no nursing or nursing-related services for a

1 period of 24 consecutive months shall be listed as "inactive"  
2 and as such do not meet the requirements of this Section.

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

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

6 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.  
7 4153-206.01)

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

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

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

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



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

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

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

22 (210 ILCS 45/3-206.02) (from Ch. 111 1/2, par.  
23 4153-206.02)

24 Sec. 3-206.02. (a) The Department, after notice to the  
25 nursing assistant, habilitation aide, home health aide,

1 psychiatric services rehabilitation aide, or child care aide,  
2 may denote that the Department has found any of the following:

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

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

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

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

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

23 (c) The Department may denote any nursing assistant,  
24 habilitation aide, home health aide, psychiatric services  
25 rehabilitation aide, or child care aide on the registry who  
26 fails (i) to file a return, (ii) to pay the tax, penalty or

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

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

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

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

20 (210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)

21 Sec. 3-212. Inspection.

22 (a) The Department, whenever it deems necessary in  
23 accordance with subsection (b), shall inspect, survey and  
24 evaluate every facility to determine compliance with  
25 applicable licensure requirements and standards. Submission of

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

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

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

1 found guilty of prenotifying a facility shall be subject to  
2 disciplinary action by his or her employer.

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

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

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

1 resident abuse or neglect; weather conditions; health  
2 emergencies; other reasonable belief that deficiencies exist.

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

1 subsection, "enforcement remedy" means a sanction for  
2 violating a federal certification requirement or this Act.

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

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

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

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

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

14 (210 ILCS 45/3-303) (from Ch. 111 1/2, par. 4153-303)

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

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



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

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

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

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

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

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

7 (210 ILCS 45/3-303.2) (from Ch. 111 1/2, par. 4153-303.2)

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

24 (b) If, however, the situation, condition or practice which  
25 resulted in the issuance of an administrative warning, with the

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

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

9 (210 ILCS 45/3-304.1)

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

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

15 (1) who regulates nursing homes;

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

18 (3) deficiencies and plans of correction;

19 (4) enforcement remedies;

20 (5) penalty letters;

21 (6) designation of penalty monies;

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

25 (8) advisory standards;

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

2 (10) enforcement actions and enforcement summaries;

3 and-

4 (11) distressed facilities.

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

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

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

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

14 (210 ILCS 45/3-304.2 new)

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

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

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

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

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

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

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

20 (f) Independent consultant. A facility that has been  
21 designated a distressed facility may contract with an  
22 independent consultant to develop and assist in the  
23 implementation of a plan of improvement to bring and keep the  
24 facility in compliance with this Act and, if applicable, with  
25 federal certification requirements. A facility that contracts  
26 with an independent consultant shall have 90 days to develop a

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

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

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

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

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

24       (210 ILCS 45/3-305) (from Ch. 111 1/2, par. 4153-305)

25       Sec. 3-305. The license of a facility which is in violation

1 of this Act or any rule adopted thereunder may be subject to  
2 the penalties or fines levied by the Department as specified in  
3 this Section.

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

17 (1.5) A licensee who commits a Type "A" violation as  
18 defined in Section 1-129 is automatically issued a conditional  
19 license for a period of 6 months to coincide with an acceptable  
20 plan of correction and assessed a fine of up to \$12,500 per  
21 violation.

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



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

13 (2.5) A licensee who commits 10 or more Type "C"  
14 violations, as defined in Section 1-132, in a single survey  
15 shall be assessed a fine of up to \$250 per violation. A  
16 licensee who commits a one or more Type "C" violations with a  
17 high risk designation, as defined by rule, shall be assessed a  
18 fine of up to \$500 per violation.

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

25 (4) A licensee who fails to satisfactorily comply with an  
26 accepted plan of correction for a Type "B" violation or an

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

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

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

25 (7) For purposes of assessing fines under this Section, a  
26 repeat violation shall be a violation which has been cited

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

6 (7.5) If an occurrence results in more than one type of  
7 violation as defined in this Act (that is, a Type "AA", Type  
8 "A", Type "B", or Type "C" violation), the maximum fine that  
9 may be assessed for that occurrence is the maximum fine that  
10 may be assessed for the most serious type of violation charged.  
11 For purposes of the preceding sentence, a Type "AA" violation  
12 is the most serious type of violation that may be charged,  
13 followed by a Type "A", Type "B", or Type "C" violation, in  
14 that order.

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

21 (9) High risk designation. If the Department finds that a  
22 facility has violated a provision of the Illinois  
23 Administrative Code that has a high risk designation, or that a  
24 facility has violated the same provision of the Illinois  
25 Administrative Code 3 or more times in the previous 12 months,  
26 the Department may assess a fine of up to 2 times the maximum

1 fine otherwise allowed.

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

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

9 (210 ILCS 45/3-306) (from Ch. 111 1/2, par. 4153-306)

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

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

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

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

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

24 (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  
25 Monitor/Receiver Fund. If the person or facility against whom a

1 penalty has been assessed does not comply with a written demand  
2 for payment within 30 days, the Director shall issue an order  
3 to do any of the following:

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

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

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

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

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

22 (210 ILCS 45/3-318) (from Ch. 111 1/2, par. 4153-318)

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

24 (1) Intentionally fail to correct or interfere with the  
25 correction of a Type "AA", Type "A", or Type "B" violation

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

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

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

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

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

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

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

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

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

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

5 (210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

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

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

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

22 (c) When an identified offender is within the provisional  
23 admission period defined in Section 1-120.3. If the Identified  
24 Offender Report and Recommendation prepared under Section  
25 2-201.6 shows that the identified offender poses a serious



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

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

9 (210 ILCS 45/3-501) (from Ch. 111 1/2, par. 4153-501)

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

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

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

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

21 (d) The Department determines that an emergency  
22 exists, whether or not it has initiated revocation or  
23 nonrenewal procedures, if because of the unwillingness or  
24 inability of the licensee to remedy the emergency the  
25 Department believes a monitor or receiver is necessary; ~~or~~

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

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

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

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

17 (210 ILCS 45/3-504) (from Ch. 111 1/2, par. 4153-504)

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

1 shall appoint a receiver ~~for a limited time period, not to~~  
2 ~~exceed 180 days,~~ if it finds that:

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

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

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

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

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

15 (210 ILCS 45/3-808 new)

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

20 (210 ILCS 45/3-809 new)

21 Sec. 3-809. Rules to implement changes. In developing rules  
22 and regulations to implement changes made by this amendatory  
23 Act of the 96th General Assembly, the Department shall seek the  
24 input of advocates for long term care facility residents,

1 representatives of associations representing long term care  
2 facilities, and representatives of associations representing  
3 employees of long term care facilities.

4 (210 ILCS 45/3-810 new)

5 Sec. 3-810. Whistleblower protection.

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

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

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

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

25 (3) Assists or participates in a proceeding to enforce

1       the provisions of this Act.

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

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

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

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

19           (3) Interest on the back pay.

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

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

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

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

3           (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

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

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

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

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

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

26           (d) Before transfer of a patient to a long term care

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

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

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

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

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

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

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

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



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

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

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

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

23 (b) Every hospital shall develop procedures for a physician  
24 with medical staff privileges at the hospital or any  
25 appropriate medical staff member to provide the discharge

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

25 (c) At least 24 hours prior to discharge from the hospital,  
26 the patient shall receive written information on the patient's

1 right to appeal the discharge pursuant to the federal Medicare  
2 program, including the steps to follow to appeal the discharge  
3 and the appropriate telephone number to call in case the  
4 patient intends to appeal the discharge.

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

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

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

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

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

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

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

25 A hospital shall notify a long term care facility if the  
26 hospital has initiated a criminal history background check on a

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

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

13 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

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

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

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

1 Section 13.

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

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

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

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

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

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

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

3           (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

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

7           (A) Entities required to report.

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



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

24 (2) Professional associations. The President or chief  
25 executive officer of any association or society, of persons  
26 licensed under this Act, operating within this State shall

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

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

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

26 (5) State agencies. All agencies, boards, commissions,

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

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

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

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

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

1 issue in the report was rendered, provided, however, no  
2 medical records may be revealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Should the Disciplinary Board find that there are not  
23 sufficient facts to warrant further investigation, or action,  
24 the report shall be accepted for filing and the matter shall be  
25 deemed closed and so reported to the Secretary. The Secretary  
26 shall then have 30 days to accept the Medical Disciplinary



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

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

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

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

1 the injunction, the court may punish the offender for contempt  
2 of court. Proceedings under this paragraph shall be in addition  
3 to, and not in lieu of, all other remedies and penalties  
4 provided for by this Section.

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

6 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

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

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

1 status, or have other disciplinary action, including limiting  
2 the scope, nature or extent of their practice, as the  
3 Department may deem proper taken with regard thereto.

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

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

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

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

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

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

16 (225 ILCS 70/17) (from Ch. 111, par. 3667)

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

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

19 Sec. 17. Grounds for disciplinary action.

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

1 following causes:

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

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

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

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

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

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

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

25 (8) Discipline by another U.S. jurisdiction if at least  
26 one of the grounds for the discipline is the same or

1 substantially equivalent to those set forth herein.

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

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

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

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

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

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

20 (15) (Blank).

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

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

26 (18) Violation of the Nursing Home Care Act or of any

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

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

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

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

1 All proceedings to suspend, revoke, place on probationary  
2 status, or take any other disciplinary action as the Department  
3 may deem proper, with regard to a license on any of the  
4 foregoing grounds, must be commenced within 5 years next after  
5 receipt by the Department of (i) a complaint alleging the  
6 commission of or notice of the conviction order for any of the  
7 acts described herein or (ii) a referral for investigation  
8 under Section 3-108 of the Nursing Home Care Act.

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

17 The Department, upon the recommendation of the Board, may  
18 adopt rules which set forth standards to be used in determining  
19 what constitutes:

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

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

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



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

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

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

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

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

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

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

23           Should the Attorney General decline representation, a  
24 person entitled to indemnification under this Section shall  
25 have the right to employ counsel of his or her choice, whose  
26 fees shall be provided by the State, after approval by the

1 Attorney General, unless there is a determination by a court  
2 that the member's actions were not in good faith or were wilful  
3 and wanton.

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

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

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

24 (e) The Department may refuse to issue or may suspend the  
25 license of any person who fails to file a return, or to pay the  
26 tax, penalty or interest shown in a filed return, or to pay any

1 final assessment of tax, penalty or interest, as required by  
2 any tax Act administered by the Department of Revenue, until  
3 such time as the requirements of any such tax Act are  
4 satisfied.

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

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

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

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

12 Sec. 17. Grounds for disciplinary action.

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

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

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

1 of nursing home administration.

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

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

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

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

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

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

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

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

26 (11) Physical illness, mental illness, or other

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

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

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

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

12 (15) (Blank).

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

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

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

1       shall create a rebuttable presumption of a violation of  
2       this subsection.

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

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

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

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



1 under Section 3-108 of the Nursing Home Care Act.

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

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

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

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

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

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

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

25 In enforcing this Section, the Department or Board, upon a  
26 showing of a possible violation, may compel any individual

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

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

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

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

25 (b) Any individual or organization acting in good faith,  
26 and not in a wilful and wanton manner, in complying with this

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

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

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

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

1 constitute an absolute waiver of the right to a defense and  
2 indemnification.

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

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

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

24 (f) The Department of Public Health shall transmit to the  
25 Department a list of those facilities which receive an "A"  
26 violation as defined in Section 1-129 of the Nursing Home Care

1 Act.

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

3 (225 ILCS 70/17.1 new)

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

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

25 For the purposes of this subsection, "owner" does not mean

1 the owner of the real estate or physical plant who does not  
2 hold management or operational control of the licensed long  
3 term care facility.

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

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

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

1 in such a manner as to endanger others.

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

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

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

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

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

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

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

26 If the Department receives a written report concerning an



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

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

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

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

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

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

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

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

25 (i) If any person or entity violates this Section, then an  
26 action may be brought in the name of the People of the State of

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

12 (225 ILCS 70/38 new)

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

23 Section 40. The Illinois Public Aid Code is amended by  
24 changing Section 5-5.12 and adding Sections 5-27 and 5-28 as

1 follows:

2 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

3 Sec. 5-5.12. Pharmacy payments.

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

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

19 (c) (Blank).

20 (d) The Department shall not impose requirements for prior  
21 approval based on a preferred drug list for anti-retroviral,  
22 anti-hemophilic factor concentrates, or any atypical  
23 antipsychotics, conventional antipsychotics, or  
24 anticonvulsants used for the treatment of serious mental  
25 illnesses until 30 days after it has conducted a study of the

1 impact of such requirements on patient care and submitted a  
2 report to the Speaker of the House of Representatives and the  
3 President of the Senate.

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

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

20 (305 ILCS 5/5-27 new)

21 Sec. 5-27. Nursing home workgroup.

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

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

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

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

9 (3) The development of a provider assessment.

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

12 (305 ILCS 5/5-28 new)

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

23 Section 93. Intent. Nothing in this Act is intended to  
24 apply to any facility that is subject to licensure under the

1 MR/DD Community Care Act on or after July 1, 2010.

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

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