



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5668

Introduced 2/16/2012, by Rep. Kelly M. Cassidy - Greg Harris

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Act on the Aging, the Illinois Health Facilities Planning Act, the Nursing Home Care Act, the ID/DD Community Care Act, and the Specialized Mental Health Rehabilitation Act. Makes changes concerning various matters relating to long-term care facilities, including the following: the Long Term Care Ombudsman Program; denial of permits by the Health Facilities and Services Review Board; notification of a resident's death or an unusual incident, abuse, or neglect involving a resident; notification to residents of violations; required liability insurance coverage; staffing; psychiatric services; staff training; dementia-specific orientation; submission of home office cost statements; public computer access to information; and Department of State Police training for facility staff. Amends the State Mandates Act to require implementation without reimbursement by the State.

LRB097 19458 DRJ 66076 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Act on the 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;
17 that is, it means the right to:

18 (i) Enter any long term care facility or assisted
19 living or shared housing establishment or supportive
20 living facility;

21 (ii) Communicate privately and without restriction
22 with any resident, regardless of age, who consents to
23 the communication;

1 (iii) Seek consent to communicate privately and
2 without restriction with any resident, regardless of
3 age;

4 (iv) Inspect the clinical and other records of a
5 resident, regardless of age, with the express written
6 consent of the resident;

7 (v) Observe all areas of the long term care
8 facility or supportive living facilities, assisted
9 living or shared housing establishment except the
10 living area of any resident who protests the
11 observation.

12 (2) "Long Term Care Facility" means (i) any facility as
13 defined by Section 1-113 of the Nursing Home Care Act, as
14 now or hereafter amended; and (ii) any skilled nursing
15 facility or a nursing facility which meets the requirements
16 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
17 (b), (c), and (d) of the Social Security Act, as now or
18 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
19 and 42 U.S.C. 1396r(a), (b), (c), and (d)); and any
20 facility as defined by Section 1-113 of the MR/DD Community
21 Care Act, as now or hereafter amended.

22 (2.5) "Assisted living establishment" and "shared
23 housing establishment" have the meanings given those terms
24 in Section 10 of the Assisted Living and Shared Housing
25 Act.

26 (2.7) "Supportive living facility" means a facility

1 established under Section 5-5.01a of the Illinois Public
2 Aid Code.

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

8 (3.1) "Ombudsman" means any designated representative
9 of a regional long term care ombudsman program; provided
10 that the representative, whether he is paid for or
11 volunteers his ombudsman services, shall be qualified and
12 designated by the Office to perform the duties of an
13 ombudsman as specified by the Department in rules and in
14 accordance with the provisions of the Older Americans Act
15 of 1965, as now or hereafter amended.

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

23 The Department, in consultation with the Office, shall
24 promulgate administrative rules in accordance with the
25 provisions of the Older Americans Act of 1965, as now or
26 hereafter amended, to establish the responsibilities of the

1 Department and the Office of State Long Term Care Ombudsman and
2 the designated regional Ombudsman programs. The administrative
3 rules shall include the responsibility of the Office and
4 designated regional programs to investigate and resolve
5 complaints made by or on behalf of residents of long term care
6 facilities, supportive living facilities, and assisted living
7 and shared housing establishments, including the option to
8 serve residents under the age of 60, relating to actions,
9 inaction, or decisions of providers, or their representatives,
10 of long term care facilities, of supported living facilities,
11 of assisted living and shared housing establishments, of public
12 agencies, or of social services agencies, which may adversely
13 affect the health, safety, welfare, or rights of such
14 residents. The Office and designated regional programs may
15 represent all residents, but are not required by this Act to
16 represent persons under 60 years of age, except to the extent
17 required by federal law. By June 1, 2014, the Office and
18 designated regional programs shall represent all residents,
19 regardless of age. When necessary and appropriate,
20 representatives of the Office shall refer complaints to the
21 appropriate regulatory State agency. The Department, in
22 consultation with the Office, shall cooperate with the
23 Department of Human Services and other State agencies in
24 providing information and training to designated regional long
25 term care ombudsman programs about the appropriate assessment
26 and treatment (including information about appropriate

1 supportive services, treatment options, and assessment of
2 rehabilitation potential) of the residents they serve,
3 including children, persons with mental illness (other than
4 Alzheimer's disease and related disorders), and persons with
5 developmental disabilities.

6 By June 1, 2013, there shall be one ombudsman for every
7 3,500 licensed or approved beds housing residents served by the
8 ombudsman program. By June 1, 2014, there shall be one
9 ombudsman for every 2,000 licensed or approved beds housing
10 residents served by the ombudsman program.

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

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

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

1 about long term care. The Office shall create a Consumer
2 Choice Information Report for each type of licensed long
3 term care facility. The Office shall collaborate with the
4 Attorney General and the Department of Human Services to
5 create a Consumer Choice Information Report form for
6 facilities licensed under the ID/DD ~~MR/DD~~ Community Care
7 Act. To the extent possible, all Reports shall be in the
8 form of a spreadsheet or database.

9 (2) Develop a database of Consumer Choice Information
10 Reports completed by licensed long term care facilities
11 that includes information in the following consumer
12 categories:

- 13 (A) Medical Care, Services, and Treatment.
- 14 (B) Special Services and Amenities.
- 15 (C) Staffing.
- 16 (D) Facility Statistics and Resident Demographics.
- 17 (E) Ownership and Administration.
- 18 (F) Safety and Security.
- 19 (G) Meals and Nutrition.
- 20 (H) Rooms, Furnishings, and Equipment.
- 21 (I) Family, Volunteer, and Visitation Provisions.

22 (3) Make this information accessible to the public,
23 including on the Internet by means of a hyperlink labeled
24 "Resident's Right to Know" on the Office's World Wide Web
25 home page. Information about facilities licensed under the
26 MR/DD Community Care Act shall be made accessible to the

1 public by the Department of Human Services, including on
2 the Internet by means of a hyperlink labeled "Resident's
3 and Families' Right to Know" on the Department of Human
4 Services' "For Customers" website.

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

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

9 (6) Include in the Office's Consumer Choice
10 Information Report for each type of licensed long term care
11 facility additional information on each licensed long term
12 care facility in the State of Illinois, including
13 information regarding each facility's compliance with the
14 relevant State and federal statutes, rules, and standards;
15 customer satisfaction surveys; and information generated
16 from quality measures developed by the Centers for Medicare
17 and Medicaid Services.

18 (d) Access and visitation rights.

19 (1) In accordance with subparagraphs (A) and (E) of
20 paragraph (3) of subsection (c) of Section 1819 and
21 subparagraphs (A) and (E) of paragraph (3) of subsection
22 (c) of Section 1919 of the Social Security Act, as now or
23 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
24 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
25 Older Americans Act of 1965, as now or hereafter amended
26 (42 U.S.C. 3058f), a long term care facility, supportive

1 living facility, assisted living establishment, and shared
2 housing establishment must:

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

5 (ii) permit representatives of the Office, with
6 the permission of the resident's legal representative
7 or legal guardian, to examine a resident's clinical and
8 other records, regardless of the age of the resident,
9 and if a resident is unable to consent to such review,
10 and has no legal guardian, permit representatives of
11 the Office appropriate access, as defined by the
12 Department, in consultation with the Office, in
13 administrative rules, to the resident's records.

14 (2) Each long term care facility, supportive living
15 facility, assisted living establishment, and shared
16 housing establishment shall display, in multiple,
17 conspicuous public places within the facility accessible
18 to both visitors and residents and in an easily readable
19 format, the address and phone number of the Office of the
20 Long Term Care Ombudsman, in a manner prescribed by the
21 Office.

22 (e) Immunity. An ombudsman or any representative of the
23 Office participating in the good faith performance of his or
24 her official duties shall have immunity from any liability
25 (civil, criminal or otherwise) in any proceedings (civil,
26 criminal or otherwise) brought as a consequence of the

1 performance of his official duties.

2 (f) Business offenses.

3 (1) No person shall:

4 (i) Intentionally prevent, interfere with, or
5 attempt to impede in any way any representative of the
6 Office in the performance of his official duties under
7 this Act and the Older Americans Act of 1965; or

8 (ii) Intentionally retaliate, discriminate
9 against, or effect reprisals against any long term care
10 facility resident or employee for contacting or
11 providing information to any representative of the
12 Office.

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

15 (3) The Director of Aging, in consultation with the
16 Office, shall notify the State's Attorney of the county in
17 which the long term care facility, supportive living
18 facility, or assisted living or shared housing
19 establishment is located, or the Attorney General, of any
20 violations of this Section.

21 (g) Confidentiality of records and identities. The
22 Department shall establish procedures for the disclosure by the
23 State Ombudsman or the regional ombudsmen entities of files
24 maintained by the program. The procedures shall provide that
25 the files and records may be disclosed only at the discretion
26 of the State Long Term Care Ombudsman or the person designated

1 by the State Ombudsman to disclose the files and records, and
2 the procedures shall prohibit the disclosure of the identity of
3 any complainant, resident, witness, or employee of a long term
4 care provider unless:

5 (1) the complainant, resident, witness, or employee of
6 a long term care provider or his or her legal
7 representative consents to the disclosure and the consent
8 is in writing;

9 (2) the complainant, resident, witness, or employee of
10 a long term care provider gives consent orally; and the
11 consent is documented contemporaneously in writing in
12 accordance with such requirements as the Department shall
13 establish; or

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

15 (h) Legal representation. The Attorney General shall
16 provide legal representation to any representative of the
17 Office against whom suit or other legal action is brought in
18 connection with the performance of the representative's
19 official duties, in accordance with the State Employee
20 Indemnification Act.

21 (i) Treatment by prayer and spiritual means. Nothing in
22 this Act shall be construed to authorize or require the medical
23 supervision, regulation or control of remedial care or
24 treatment of any resident in a long term care facility operated
25 exclusively by and for members or adherents of any church or
26 religious denomination the tenets and practices of which

1 include reliance solely upon spiritual means through prayer for
2 healing.

3 (j) The Long Term Care Ombudsman Fund is created as a
4 special fund in the State treasury to receive moneys for the
5 express purposes of this Section. All interest earned on moneys
6 in the fund shall be credited to the fund. Moneys contained in
7 the fund shall be used to support the purposes of this Section.
8 (Source: P.A. 96-328, eff. 8-11-09; 96-758, eff. 8-25-09;
9 96-1372, eff. 7-29-10; 97-38, eff. 6-28-11.)

10 Section 10. The Illinois Health Facilities Planning Act is
11 amended by changing Sections 3 and 14.1 as follows:

12 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

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

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

15 "Health care facilities" means and includes the following
16 facilities and organizations:

17 1. An ambulatory surgical treatment center required to
18 be licensed pursuant to the Ambulatory Surgical Treatment
19 Center Act;

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

22 3. Skilled and intermediate long term care facilities
23 licensed under the Nursing Home Care Act;

24 3.5. Skilled and intermediate care facilities licensed

1 under the ID/DD Community Care Act;

2 3.7. Facilities licensed under the Specialized Mental
3 Health Rehabilitation Act;

4 4. Hospitals, nursing homes, ambulatory surgical
5 treatment centers, or kidney disease treatment centers
6 maintained by the State or any department or agency
7 thereof;

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

11 6. An institution, place, building, or room used for
12 the performance of outpatient surgical procedures that is
13 leased, owned, or operated by or on behalf of an
14 out-of-state facility;

15 7. An institution, place, building, or room used for
16 provision of a health care category of service as defined
17 by the Board, including, but not limited to, cardiac
18 catheterization and open heart surgery; and

19 8. An institution, place, building, or room used for
20 provision of major medical equipment used in the direct
21 clinical diagnosis or treatment of patients, and whose
22 project cost is in excess of the capital expenditure
23 minimum.

24 This Act shall not apply to the construction of any new
25 facility or the renovation of any existing facility located on
26 any campus facility as defined in Section 5-5.8b of the

1 Illinois Public Aid Code, provided that the campus facility
2 encompasses 30 or more contiguous acres and that the new or
3 renovated facility is intended for use by a licensed
4 residential facility.

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

8 No facility licensed under the Supportive Residences
9 Licensing Act or the Assisted Living and Shared Housing Act
10 shall be subject to the provisions of this Act.

11 No facility established and operating under the
12 Alternative Health Care Delivery Act as a children's respite
13 care center alternative health care model demonstration
14 program or as an Alzheimer's Disease Management Center
15 alternative health care model demonstration program shall be
16 subject to the provisions of this Act.

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

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

1 This Act does not apply to a dialysis facility that
2 provides only dialysis training, support, and related services
3 to individuals with end stage renal disease who have elected to
4 receive home dialysis. This Act does not apply to a dialysis
5 unit located in a licensed nursing home that offers or provides
6 dialysis-related services to residents with end stage renal
7 disease who have elected to receive home dialysis within the
8 nursing home. The Board, however, may require these dialysis
9 facilities and licensed nursing homes to report statistical
10 information on a quarterly basis to the Board to be used by the
11 Board to conduct analyses on the need for proposed kidney
12 disease treatment centers.

13 This Act shall not apply to the closure of an entity or a
14 portion of an entity licensed under the Nursing Home Care Act,
15 the Specialized Mental Health Rehabilitation Act, or the ID/DD
16 ~~MR/DD~~ Community Care Act, with the exceptions of facilities
17 operated by a county or Illinois Veterans Homes, that elects to
18 convert, in whole or in part, to an assisted living or shared
19 housing establishment licensed under the Assisted Living and
20 Shared Housing Act.

21 ~~This Act does not apply to any change of ownership of a~~
22 ~~healthcare facility that is licensed under the Nursing Home~~
23 ~~Care Act, the Specialized Mental Health Rehabilitation Act, or~~
24 ~~the ID/DD Community Care Act, with the exceptions of facilities~~
25 ~~operated by a county or Illinois Veterans Homes. Changes of~~
26 ~~ownership of facilities licensed under the Nursing Home Care~~

1 ~~Act must meet the requirements set forth in Sections 3-101~~
2 ~~through 3-119 of the Nursing Home Care Act.~~

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

23 "Person" means any one or more natural persons, legal
24 entities, governmental bodies other than federal, or any
25 combination thereof.

26 "Consumer" means any person other than a person (a) whose

1 major occupation currently involves or whose official capacity
2 within the last 12 months has involved the providing,
3 administering or financing of any type of health care facility,
4 (b) who is engaged in health research or the teaching of
5 health, (c) who has a material financial interest in any
6 activity which involves the providing, administering or
7 financing of any type of health care facility, or (d) who is or
8 ever has been a member of the immediate family of the person
9 defined by (a), (b), or (c).

10 "State Board" or "Board" means the Health Facilities and
11 Services Review Board.

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

1 "Establish" means the construction of a health care
2 facility or the replacement of an existing facility on another
3 site or the initiation of a category of service as defined by
4 the Board.

5 "Major medical equipment" means medical equipment which is
6 used for the provision of medical and other health services and
7 which costs in excess of the capital expenditure minimum,
8 except that such term does not include medical equipment
9 acquired by or on behalf of a clinical laboratory to provide
10 clinical laboratory services if the clinical laboratory is
11 independent of a physician's office and a hospital and it has
12 been determined under Title XVIII of the Social Security Act to
13 meet the requirements of paragraphs (10) and (11) of Section
14 1861(s) of such Act. In determining whether medical equipment
15 has a value in excess of the capital expenditure minimum, the
16 value of studies, surveys, designs, plans, working drawings,
17 specifications, and other activities essential to the
18 acquisition of such equipment shall be included.

19 "Capital Expenditure" means an expenditure: (A) made by or
20 on behalf of a health care facility (as such a facility is
21 defined in this Act); and (B) which under generally accepted
22 accounting principles is not properly chargeable as an expense
23 of operation and maintenance, or is made to obtain by lease or
24 comparable arrangement any facility or part thereof or any
25 equipment for a facility or part; and which exceeds the capital
26 expenditure minimum.

1 For the purpose of this paragraph, the cost of any studies,
2 surveys, designs, plans, working drawings, specifications, and
3 other activities essential to the acquisition, improvement,
4 expansion, or replacement of any plant or equipment with
5 respect to which an expenditure is made shall be included in
6 determining if such expenditure exceeds the capital
7 expenditures minimum. Unless otherwise interdependent, or
8 submitted as one project by the applicant, components of
9 construction or modification undertaken by means of a single
10 construction contract or financed through the issuance of a
11 single debt instrument shall not be grouped together as one
12 project. Donations of equipment or facilities to a health care
13 facility which if acquired directly by such facility would be
14 subject to review under this Act shall be considered capital
15 expenditures, and a transfer of equipment or facilities for
16 less than fair market value shall be considered a capital
17 expenditure for purposes of this Act if a transfer of the
18 equipment or facilities at fair market value would be subject
19 to review.

20 "Capital expenditure minimum" means \$11,500,000 for
21 projects by hospital applicants, \$6,500,000 for applicants for
22 projects related to skilled and intermediate care long-term
23 care facilities licensed under the Nursing Home Care Act, and
24 \$3,000,000 for projects by all other applicants, which shall be
25 annually adjusted to reflect the increase in construction costs
26 due to inflation, for major medical equipment and for all other

1 capital expenditures.

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

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

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

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

7 "Licensed health care professional" means a person
8 licensed to practice a health profession under pertinent
9 licensing statutes of the State of Illinois.

10 "Director" means the Director of the Illinois Department of
11 Public Health.

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

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

15 "Out-of-state facility" means a person that is both (i)
16 licensed as a hospital or as an ambulatory surgery center under
17 the laws of another state or that qualifies as a hospital or an
18 ambulatory surgery center under regulations adopted pursuant
19 to the Social Security Act and (ii) not licensed under the
20 Ambulatory Surgical Treatment Center Act, the Hospital
21 Licensing Act, or the Nursing Home Care Act. Affiliates of
22 out-of-state facilities shall be considered out-of-state
23 facilities. Affiliates of Illinois licensed health care
24 facilities 100% owned by an Illinois licensed health care
25 facility, its parent, or Illinois physicians licensed to
26 practice medicine in all its branches shall not be considered

1 out-of-state facilities. Nothing in this definition shall be
2 construed to include an office or any part of an office of a
3 physician licensed to practice medicine in all its branches in
4 Illinois that is not required to be licensed under the
5 Ambulatory Surgical Treatment Center Act.

6 "Change of ownership of a health care facility" means a
7 change in the person who has ownership or control of a health
8 care facility's physical plant and capital assets. A change in
9 ownership is indicated by the following transactions: sale,
10 transfer, acquisition, lease, change of sponsorship, or other
11 means of transferring control.

12 "Related person" means any person that: (i) is at least 50%
13 owned, directly or indirectly, by either the health care
14 facility or a person owning, directly or indirectly, at least
15 50% of the health care facility; or (ii) owns, directly or
16 indirectly, at least 50% of the health care facility.

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

20 "Freestanding emergency center" means a facility subject
21 to licensure under Section 32.5 of the Emergency Medical
22 Services (EMS) Systems Act.

23 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;
24 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-277, eff. 1-1-12;
25 revised 9-7-11.)

1 (20 ILCS 3960/14.1)

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

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

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

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

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

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

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

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

1 basis of prior operator history, other than for: (i) actions
2 specified under item (2), (3), (4), ~~or~~ (5), or (6) of Section
3 3-117 of the Specialized Mental Health Rehabilitation Act or
4 item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing
5 Home Care Act; (ii) actions specified under item (a)(6) of
6 Section 3-119 of the Specialized Mental Health Rehabilitation
7 Act or item (a)(6) of Section 3-119 of the Nursing Home Care
8 Act; or (iii) actions within the preceding 5 years constituting
9 a substantial and repeated failure to comply with the
10 Specialized Mental Health Rehabilitation Act or the Nursing
11 Home Care Act or the rules and regulations adopted by the
12 Department under those Acts. For facilities licensed under the
13 Nursing Home Care Act, no permit shall be denied on the basis
14 of prior operator history, other than for: (i) actions
15 specified under item (2), (3), (4), (5), or (6) of Section
16 3-117 of the Specialized Mental Health Rehabilitation Act or
17 item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing
18 Home Care Act; (ii) actions specified under item (a)(6) of
19 Section 3-119 of the Specialized Mental Health Rehabilitation
20 Act or item (2), (3), (4), (5), or (6) of Section 3-117 of the
21 Nursing Home Care Act; or (iii) actions within the preceding 5
22 years constituting a substantial and repeated failure to comply
23 with the Specialized Mental Health Rehabilitation Act or the
24 Nursing Home Care Act or the rules and regulations adopted by
25 the Department under those Acts ~~that Act~~. The State Board shall
26 not deny a permit on account of any action described in this

1 subsection (a-5) without also considering all such actions in
2 the light of all relevant information available to the State
3 Board, including whether the permit is sought to substantially
4 comply with a mandatory or voluntary plan of correction
5 associated with any action described in this subsection (a-5).
6 A permit for a change of ownership granted pursuant to this
7 Section for a facility that has committed 2 Type "A" violations
8 or at least one Type "AA" violation in the past 2 years must
9 require the new owner to comply with a credible plan detailing
10 how the facility will remain in compliance with its applicable
11 licensing Act and rules and regulations adopted by the
12 Department under that Act. Failure to comply with the plan
13 shall be considered a modification of a health care facility
14 for purposes of subsection (b) of this Section.

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

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

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

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

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

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

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

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

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

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

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

20 (Source: P.A. 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10;
21 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-7-11.)

22 Section 15. The Nursing Home Care Act is amended by
23 changing Sections 2-208, 3-109, 3-117, 3-119, 3-202, 3-202.05,
24 3-202.2b, 3-206, 3-207, 3-304.1, and 3-808.5 and by adding
25 Sections 1-114.2, 2-218, 3-202.6, and 3-206.06 as follows:

1 (210 ILCS 45/1-114.2 new)

2 Sec. 1-114.2. Liability insurance. "Liability insurance"
3 means insurance on risks based upon neglect of a resident for
4 which a licensee is or may be responsible.

5 (210 ILCS 45/2-208) (from Ch. 111 1/2, par. 4152-208)

6 Sec. 2-208. Notice of death, unusual incident, abuse, or
7 neglect.

8 (a) A facility shall immediately notify the resident's next
9 of kin, representative and physician of the resident's death or
10 when the resident's death appears to be imminent. A facility
11 shall notify the Department by telephone of a resident's death
12 within 24 hours after the resident's death. The facility shall
13 notify the Department of the death of a facility resident that
14 does not occur in the facility immediately upon learning of the
15 death. A facility shall promptly notify the coroner or medical
16 examiner of a resident's death in a manner and form to be
17 determined by the Department after consultation with the
18 coroner or medical examiner of the county in which the facility
19 is located. In addition to notice to the Department by
20 telephone, the Department shall require the facility to submit
21 written notification of the death of a resident within 72 hours
22 after the death, including a report of any medication errors or
23 other incidents that occurred, within 30 days after the
24 resident's death. A facility's failure to comply with this

1 subsection shall constitute a Type "B" violation.

2 (b) A facility shall immediately notify a resident's next
3 of kin, guardian, or representative of any unusual incident,
4 abuse, or neglect involving the resident. A facility shall
5 immediately notify the Department by telephone of any unusual
6 incident, abuse, or neglect required to be reported pursuant to
7 State law or administrative rule. In addition to notice to the
8 Department by telephone, the Department shall require the
9 facility to submit written notification of any unusual
10 incident, abuse, or neglect within one day after the unusual
11 incident, abuse, or neglect occurs. A facility's failure to
12 comply with this subsection shall constitute a Type "B"
13 violation. For purposes of this subsection, "unusual incident"
14 means any of the following: a serious injury; an unscheduled
15 hospital visit for treatment of serious injury; a 9-1-1 call
16 for emergency services directly relating to a resident threat;
17 or stalking of staff, a resident, or any other person.

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

19 (210 ILCS 45/2-218 new)

20 Sec. 2-218. Notification of violations or deficiencies.
21 When the Department issues any notice pursuant to Section
22 3-119, 3-301, 3-303, 3-307, or 3-702 of this Act, or when the
23 Centers for Medicare and Medicaid Services (CMS) issues a
24 notice of federal Medicaid certification deficiencies, the
25 facility receiving the notice shall provide notification of the

1 violations or deficiencies, within 10 days after receiving the
2 notice, to (i) every resident identified or referred to
3 anywhere within the Department's notice of violations or the
4 CMS Form 2567 (Statement of Deficiencies and Plan of
5 Correction) as having received care or services that violated
6 State or federal standards and (ii) the guardian or resident's
7 representative of every such resident. The notification
8 provided by the facility shall include a Department-prescribed
9 notification letter as determined by rule and a copy of the
10 Department's notice of violations and CMS Form 2567, if any. A
11 facility's failure to provide notification pursuant to this
12 Section to a resident and the resident's representative or
13 guardian, if any, shall constitute a Type "B" violation.

14 (210 ILCS 45/3-109) (from Ch. 111 1/2, par. 4153-109)

15 Sec. 3-109. Upon receipt and review of an application for a
16 license made under this Article and inspection of the applicant
17 facility under this Article, the Director shall issue a license
18 if he finds:

19 (1) that the individual applicant, or the corporation,
20 partnership or other entity if the applicant is not an
21 individual, is a person responsible and suitable to operate
22 or to direct or participate in the operation of a facility
23 by virtue of financial capacity, appropriate business or
24 professional experience, a record of compliance with
25 lawful orders of the Department and lack of revocation of a

1 license during the previous 5 years;

2 (2) that the facility is under the supervision of an
3 administrator who is licensed, if required, under the
4 Nursing Home Administrators Licensing and Disciplinary
5 Act, as now or hereafter amended; ~~and~~

6 (3) that the facility is covered by liability insurance
7 as required by this Act; and

8 (4) ~~(3)~~ that the facility is in substantial compliance
9 with this Act, and such other requirements for a license as
10 the Department by rule may establish under this Act.

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

12 (210 ILCS 45/3-117) (from Ch. 111 1/2, par. 4153-117)

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

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

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

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

4 (4) Insufficient financial or other resources to
5 operate and conduct the facility in accordance with
6 standards promulgated by the Department under this Act,
7 including failure to have or maintain liability insurance
8 as required by this Act, and in accordance with contractual
9 obligations assumed by a recipient of a grant under the
10 Equity in Long-term Care Quality Act and the plan (if
11 applicable) submitted by a grantee for continuing and
12 increasing adherence to best practices in providing
13 high-quality nursing home care.

14 (5) Revocation of a facility license during the
15 previous 5 years, if such prior license was issued to the
16 individual applicant, a controlling owner or controlling
17 combination of owners of the applicant; or any affiliate of
18 the individual applicant or controlling owner of the
19 applicant and such individual applicant, controlling owner
20 of the applicant or affiliate of the applicant was a
21 controlling owner of the prior license; provided, however,
22 that the denial of an application for a license pursuant to
23 this subsection must be supported by evidence that such
24 prior revocation renders the applicant unqualified or
25 incapable of meeting or maintaining a facility in
26 accordance with the standards and rules promulgated by the

1 Department under this Act.

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

6 (7) That the facility is in receivership and the
7 proposed licensee has not submitted a specific detailed
8 plan to bring the facility into compliance with the
9 requirements of this Act and with federal certification
10 requirements, if the facility is certified, and to keep the
11 facility in such compliance.

12 (Source: P.A. 95-331, eff. 8-21-07; 96-1372, eff. 7-29-10.)

13 (210 ILCS 45/3-119) (from Ch. 111 1/2, par. 4153-119)

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

18 (1) There has been a substantial failure to comply with
19 this Act or the rules and regulations promulgated by the
20 Department under this Act. A substantial failure by a
21 facility shall include, but not be limited to, any of the
22 following:

23 (A) termination of Medicare or Medicaid
24 certification by the Centers for Medicare and Medicaid
25 Services; or

1 (B) a failure by the facility to pay any fine
2 assessed under this Act after the Department has sent
3 to the facility at least 2 notices of assessment that
4 include a schedule of payments as determined by the
5 Department, taking into account extenuating
6 circumstances and financial hardships of the facility.

7 (2) Conviction of the licensee, or of the person
8 designated to manage or supervise the facility, of a
9 felony, or of 2 or more misdemeanors involving moral
10 turpitude, during the previous 5 years as shown by a
11 certified copy of the record of the court of conviction.

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

15 (4) Financial or other resources are insufficient to
16 conduct and operate the facility in accordance with
17 standards promulgated by the Department under this Act,
18 including that the facility failed to maintain liability
19 insurance coverage as required by this Act at some time
20 during the term of its license.

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

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

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

5 (c) If a facility desires to contest the nonrenewal or
6 revocation of a license, the facility shall, within 10 days
7 after receipt of notice under subsection (b) of this Section,
8 notify the Department in writing of its request for a hearing
9 under Section 3-703. Upon receipt of the request the Department
10 shall send notice to the facility and hold a hearing as
11 provided under Section 3-703.

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

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

18 (2) Until otherwise ordered by the circuit court,
19 nonrenewal is effective on the date of expiration of any
20 existing license, or upon final action after hearing under
21 Section 3-703, whichever is later; however, a license shall
22 not be deemed to have expired if the Department fails to
23 timely respond to a timely request for renewal under this
24 Act or for a hearing to contest nonrenewal under paragraph
25 (c).

26 (3) The Department may extend the effective date of

1 license revocation or expiration in any case in order to
2 permit orderly removal and relocation of residents.

3 The Department may refuse to issue or may suspend the
4 license of any person who fails to file a return, or to pay the
5 tax, penalty or interest shown in a filed return, or to pay any
6 final assessment of tax, penalty or interest, as required by
7 any tax Act administered by the Illinois Department of Revenue,
8 until such time as the requirements of any such tax Act are
9 satisfied.

10 (Source: P.A. 95-331, eff. 8-21-07; 96-1372, eff. 7-29-10.)

11 (210 ILCS 45/3-202) (from Ch. 111 1/2, par. 4153-202)

12 Sec. 3-202. The Department shall prescribe minimum
13 standards for facilities. These standards shall regulate:

14 (1) Location and construction of the facility,
15 including plumbing, heating, lighting, ventilation, and
16 other physical conditions which shall ensure the health,
17 safety, and comfort of residents and their protection from
18 fire hazard;

19 (2) Number and qualifications of all personnel,
20 including management and nursing personnel, having
21 responsibility for any part of the care given to residents;
22 specifically, the Department shall establish staffing
23 ratios for facilities which shall specify the number of
24 staff hours per resident of care that are needed for
25 professional nursing care for various types of facilities

1 or areas within facilities and shall require consistent
2 assignment of the same nursing and other direct care staff
3 to the same residents, to the extent circumstances within
4 the control of the facility permit such assignment and
5 respecting requests by staff for reassignment;

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

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

13 (5) Equipment essential to the health and welfare of
14 the residents;

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

17 (7) A program for adequate maintenance of physical
18 plant and equipment;

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

1 attending physician whenever the temperature and relative
2 humidity are outside such comfort zones established by the
3 Department. The standards must include a requirement that
4 areas of a nursing home used by residents of the nursing
5 home be air conditioned and heated by means of operable
6 air-conditioning and heating equipment. The areas subject
7 to this air-conditioning and heating requirement include,
8 without limitation, bedrooms or common areas such as
9 sitting rooms, activity rooms, living rooms, community
10 rooms, and dining rooms. No later than July 1, 2008, the
11 Department shall submit a report to the General Assembly
12 concerning the impact of the changes made by this
13 amendatory Act of the 95th General Assembly;

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

17 (10) Maintenance of minimum financial or other
18 resources necessary to meet the standards established
19 under this Section, and to operate and conduct the facility
20 in accordance with this Act.

21 (Source: P.A. 95-31, eff. 8-9-07.)

22 (210 ILCS 45/3-202.05)

23 Sec. 3-202.05. Staffing ratios effective July 1, 2010 and
24 thereafter.

25 (a) For the purpose of computing staff to resident ratios,

1 direct care staff shall include:

- 2 (1) registered nurses;
- 3 (2) licensed practical nurses;
- 4 (3) certified nurse assistants;
- 5 (4) psychiatric services rehabilitation aides;
- 6 (5) rehabilitation and therapy aides;
- 7 (6) psychiatric services rehabilitation coordinators;
- 8 (7) assistant directors of nursing;
- 9 (8) 50% of the Director of Nurses' time; and
- 10 (9) 30% of the Social Services Directors' time.

11 The Department shall, by rule, allow certain facilities
12 subject to 77 Ill. Admin. Code 300.4000 and following (Subpart
13 S) and 300.6000 and following (Subpart T) to utilize
14 specialized clinical staff, as defined in rules, to count
15 towards the staffing ratios.

16 An employee listed in any of items (1) through (7) shall be
17 counted as direct care staff to the extent the individual
18 actually provides direct care to residents, including any
19 ancillary time the individual spends recording the direct care
20 he or she has provided to residents. An individual's time spent
21 on scheduled breaks, in training (other than one-on-one
22 demonstration and practice of direct care techniques with a
23 resident), making appointments, or serving other functions not
24 in the presence of a resident, shall not be considered "direct
25 care".

26 (b) Beginning January 1, 2011, and thereafter, light

1 intermediate care shall be staffed at the same staffing ratio
2 as intermediate care.

3 (c) Facilities shall notify the Department within 60 days
4 after the effective date of this amendatory Act of the 96th
5 General Assembly, in a form and manner prescribed by the
6 Department, of the staffing ratios in effect on the effective
7 date of this amendatory Act of the 96th General Assembly for
8 both intermediate and skilled care and the number of residents
9 receiving each level of care.

10 (d) (1) Effective July 1, 2010, for each resident needing
11 skilled care, a minimum staffing ratio of 2.5 hours of nursing
12 and personal care each day must be provided; for each resident
13 needing intermediate care, 1.7 hours of nursing and personal
14 care each day must be provided.

15 (2) Effective January 1, 2011, the minimum staffing ratios
16 shall be increased to 2.7 hours of nursing and personal care
17 each day for a resident needing skilled care and 1.9 hours of
18 nursing and personal care each day for a resident needing
19 intermediate care.

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

25 (4) Effective January 1, 2013, the minimum staffing ratios
26 shall be increased to 3.4 hours of nursing and personal care

1 each day for a resident needing skilled care and 2.3 hours of
2 nursing and personal care each day for a resident needing
3 intermediate care.

4 (5) Effective January 1, 2014, the minimum staffing ratios
5 shall be increased to 3.8 hours of nursing and personal care
6 each day for a resident needing skilled care and 2.5 hours of
7 nursing and personal care each day for a resident needing
8 intermediate care.

9 (Source: P.A. 96-1372, eff. 7-29-10; 96-1504, eff. 1-27-11.)

10 (210 ILCS 45/3-202.2b)

11 Sec. 3-202.2b. Certification of psychiatric rehabilitation
12 program.

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

1 (b) No long term care facility shall establish, operate,
2 maintain, or offer psychiatric rehabilitation services, or
3 admit, retain, or seek referrals of a resident with a serious
4 mental illness diagnosis, unless and until a valid
5 certification, which remains unsuspended, unrevoked, and
6 unexpired, has been issued.

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

20 (d) A facility currently serving residents with serious
21 mental illness that elects to terminate provision of services
22 to this population must immediately notify the Department of
23 its intent, cease to admit new residents with serious mental
24 illness, and give notice to all existing residents with serious
25 mental illness of their impending discharge. These residents
26 shall be accorded all rights and assistance provided to a

1 resident being involuntarily discharged and those provided
2 under Section 2-201.5. The facility shall continue to adhere to
3 all requirements of 77 Ill. Admin. Code 300.4000 until all
4 residents with serious mental illness have been discharged.

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

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

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

1 professionals arranging for placements or making referrals
2 unless the facility is certified under this Section.

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

17 (1) Staff sufficient in number and qualifications
18 necessary to meet the scheduled and unscheduled needs of
19 the residents on a 24-hour basis. The Department shall
20 establish by rule the minimum number of psychiatric
21 services rehabilitation coordinators in relation to the
22 number of residents with serious mental illness residing in
23 the facility. When no psychiatric services rehabilitation
24 coordinator is in the facility, there shall be at least one
25 such person on call and available to respond to emergencies
26 in the facility.

1 (2) The number and qualifications of consultants
2 required to be contracted with to provide continuing
3 education and training, and to assist with program
4 development.

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

22 (4) Quality assessment and improvement requirements,
23 in addition to those contained in this Act on the effective
24 date of this amendatory Act of the 96th General Assembly,
25 specific to a facility's residential psychiatric
26 rehabilitation services, which shall be made available to

1 the Department upon request. A facility shall be required
2 at a minimum to develop and maintain policies and
3 procedures that include, but need not be limited to,
4 evaluation of the appropriateness of resident admissions
5 based on the facility's capacity to meet specific needs,
6 resident assessments, development and implementation of
7 care plans, and discharge planning.

8 (5) Room selection and appropriateness of roommate
9 assignment, including the assignment of female residents
10 to female-only units or floors and, to the extent possible
11 (taking into account the availability of staff and staff
12 preference), the assignment of only female staff to work on
13 those floors or units.

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

19 (7) Substance abuse screening and management and
20 documented referral relationships with certified substance
21 abuse treatment providers.

22 (8) Administration of psychotropic medications to a
23 non-objecting resident with serious mental illness who is
24 incapable of giving informed consent, in compliance with
25 the applicable provisions of the Mental Health and
26 Developmental Disabilities Code. Administration of

1 psychotropic medications to an objecting resident, only
2 with a court order authorizing such administration.

3 (i) The Department shall establish a certification fee
4 schedule by rule, in consultation with advocates, nursing
5 homes, and representatives of associations representing long
6 term care facilities.

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

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

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

14 (210 ILCS 45/3-202.6 new)

15 Sec. 3-202.6. Liability insurance coverage required. No
16 person may establish, operate, maintain, offer, or advertise a
17 facility within this State without providing to the Department
18 of Public Health proof of liability insurance coverage in an
19 amount not less than \$1,000,000 per occurrence. This
20 requirement may not be waived. Failure to maintain such
21 liability insurance coverage during the term of a facility's
22 license shall be a separate Type "B" violation for each
23 resident of the facility for each month, or part of a month, in
24 which the facility did not have the minimum required liability
25 insurance.

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

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

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

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

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

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

24 (4) Have completed at least 10 ~~8~~ years of grade school
25 or provide proof of equivalent knowledge.

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

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

21 The facility shall develop and implement procedures
22 and at least 6 hours of quarterly in-service training,
23 which shall be approved by the Department, for an ongoing
24 review process, which shall take place within the facility,
25 for nursing assistants, habilitation aides, and child care
26 aides. The facility shall retain records of all staff

1 in-service training and shall provide such records to the
2 Department upon request. At least half of each quarter of
3 in-service training shall be one-on-one direct resident
4 care demonstration and practice of patient care
5 techniques.

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

19 (6) Be familiar with and have general skills related to
20 resident care.

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

1 history record check in accordance with the Health Care Worker
2 Background Check Act at any time during or after a training
3 program.

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

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

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

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

26 (e) Each facility shall obtain access to the health care

1 worker registry's web application, maintain the employment and
2 demographic information relating to each employee, and verify
3 by the category and type of employment that each employee
4 subject to this Section meets all the requirements of this
5 Section.

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

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

24 The Department's rules shall also provide for
25 circumstances and procedures whereby any person who has
26 received training that meets the requirements of this

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

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

12 (210 ILCS 45/3-206.06 new)

13 Sec. 3-206.06. Dementia-specific orientation.

14 (a) A facility that admits or retains persons with
15 Alzheimer's disease or other dementias shall give all staff who
16 have any direct contact with these residents at least 4 hours
17 of dementia-specific orientation within their first 7 days of
18 employment. Nurses, nursing assistants, and social service and
19 activities staff who work with these residents shall, within
20 their first 45 days of employment, receive a minimum of 12
21 additional hours of orientation specifically related to the
22 care of persons with Alzheimer's disease and other dementias.
23 All staff who have any direct contact with these residents
24 shall have at least 12 hours of dementia-specific education and
25 training annually thereafter.

1 (b) The Department shall specify the content of the
2 orientation and the annual education and training.

3 (210 ILCS 45/3-207) (from Ch. 111 1/2, par. 4153-207)

4 Sec. 3-207. (a) As a condition of the issuance or renewal
5 of the license of any facility, the applicant shall file a
6 statement of ownership. The applicant shall update the
7 information required in the statement of ownership within 10
8 days of any change.

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

10 (1) The name, address, telephone number, occupation or
11 business activity, business address and business telephone
12 number of the person who is the owner of the facility and every
13 person who owns the building in which the facility is located,
14 if other than the owner of the facility, which is the subject
15 of the application or license; and if the owner is a
16 partnership or corporation, the name of every partner and
17 stockholder of the owner;

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

22 (3) Other information necessary to determine the identity
23 and qualifications of an applicant or licensee to operate a
24 facility in accordance with this Act as required by the
25 Department in regulations.

1 (c) The information in the statement of ownership shall be
2 public information and shall be available from the Department.

3 (d) A facility which is owned by a chain organization as
4 defined by the Centers for Medicare and Medicaid Services shall
5 submit annually to the Department an electronic copy of the
6 Home Office Cost Statement required to be submitted by the home
7 office of the chain to the United States Department of Health
8 and Human Services. The facility shall send the cost statement
9 in electronic form to the Department forthwith after it submits
10 the statement to the Department of Health and Human Services.
11 Each week that a facility fails to comply with the requirements
12 of this subsection shall be cited as a separate administrative
13 warning.

14 (Source: P.A. 85-1183.)

15 (210 ILCS 45/3-304.1)

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

17 (a) The Department must make information regarding nursing
18 homes in the State available to the public in electronic form
19 on the World Wide Web, including all of the following
20 information:

21 (1) who regulates nursing homes;

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

24 (3) deficiencies and plans of correction;

25 (4) enforcement remedies;

- 1 (5) penalty letters;
- 2 (6) designation of penalty monies;
- 3 (7) the U.S. Department of Health and Human Services'
- 4 Health Care Financing Administration special projects or
- 5 federally required inspections;
- 6 (8) advisory standards;
- 7 (9) deficiency-free surveys;
- 8 (10) enforcement actions and enforcement summaries;
- 9 ~~and~~
- 10 (11) distressed facilities;~~;~~
- 11 (12) a link to the most recent facility cost report
- 12 filed with the Department of Healthcare and Family
- 13 Services;
- 14 (13) a link to the most recent Consumer Choice
- 15 Information Report filed with the Department on Aging;
- 16 (14) whether the facility is part of a chain; the
- 17 facility shall be deemed part of a chain if it meets
- 18 criteria established by the United States Department of
- 19 Health and Human Services that identify it as owned by a
- 20 chain organization; and
- 21 (15) a copy of the latest Home Office Cost Statement,
- 22 if any, filed by the home office of the owner of the
- 23 facility with the United States Department of Health and
- 24 Human Services.
- 25 (b) No fee or other charge may be imposed by the Department
- 26 as a condition of accessing the information.

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

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

7 (e) The Department shall cooperate with a tax-exempt,
8 not-for-profit organization dedicated solely to advocacy for
9 long-term care residents to make available in electronic form
10 the results of all surveys, including any enforcement actions,
11 and current information about individual nursing home
12 staffing, in the shortest practicable time after they become
13 publicly available. The data shall be provided without charge,
14 so long as the organization charges no fee for sharing the
15 information with the general public. If the organization makes
16 the data available on a website, the Department shall create a
17 link to the website on the Department's website.

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

19 (210 ILCS 45/3-808.5)

20 Sec. 3-808.5. Nursing home fraud, abuse, and neglect
21 prevention and reporting.

22 (a) Every licensed long term care facility that receives
23 Medicaid funding shall prominently display in its lobby, in its
24 dining areas, and on each floor of the facility information
25 approved by the Illinois Medicaid Fraud Control Unit on how to

1 report fraud, abuse, and neglect. In addition, information
2 regarding the reporting of fraud, abuse, and neglect shall be
3 provided to each resident at the time of admission and to the
4 resident's family members or emergency contacts, or to both the
5 resident's family members and his or her emergency contacts.

6 (b) Any owner or licensee of a long term care facility
7 licensed under this Act shall be responsible for the collection
8 and maintenance of any and all records required to be
9 maintained under this Section and any other applicable
10 provisions of this Act, and as a provider under the Illinois
11 Public Aid Code, and shall be responsible for compliance with
12 all of the disclosure requirements under this Section. All
13 books and records and other papers and documents that are
14 required to be kept, and all records showing compliance with
15 all of the disclosure requirements to be made pursuant to this
16 Section, shall be kept at the facility and shall, at all times
17 during business hours, be subject to inspection by any law
18 enforcement or health oversight agency or its duly authorized
19 agents or employees.

20 (c) Any report of abuse and neglect of residents made by
21 any individual in whatever manner, including, but not limited
22 to, reports made under Sections 2-107 and 3-610 of this Act, or
23 as provided under the Abused and Neglected Long Term Care
24 Facility Residents Reporting Act, that is made to an
25 administrator, a director of nursing, or any other person with
26 management responsibility at a long term care facility must be

1 disclosed to the owners and licensee of the facility within 24
2 hours of the report. The owners and licensee of a long term
3 care facility shall maintain all records necessary to show
4 compliance with this disclosure requirement.

5 (d) Any person with an ownership interest in a long term
6 care facility licensed by the Department must, within 30 days
7 of the effective date of this amendatory Act of the 96th
8 General Assembly, disclose the existence of any ownership
9 interest in any vendor who does business with the facility. The
10 disclosures required by this subsection shall be made in the
11 form and manner prescribed by the Department. Licensed long
12 term care facilities who receive Medicaid funding shall submit
13 a copy of the disclosures required by this subsection to the
14 Illinois Medicaid Fraud Control Unit. The owners and licensee
15 of a long term care facility shall maintain all records
16 necessary to show compliance with this disclosure requirement.

17 (e) Notwithstanding the provisions of Section 3-318 of this
18 Act, and in addition thereto, any person, owner, or licensee
19 who willfully fails to keep and maintain, or willfully fails to
20 produce for inspection, books and records, or willfully fails
21 to make the disclosures required by this Section, is guilty of
22 a Class A misdemeanor. A second or subsequent violation of this
23 Section shall be punishable as a Class 4 felony.

24 (f) Any owner or licensee who willfully files or willfully
25 causes to be filed a document with false information with the
26 Department, the Department of Healthcare and Family Services,

1 or the Illinois Medicaid Fraud Control Unit or any other law
2 enforcement agency, is guilty of a Class A misdemeanor.

3 (g) At the request of the Department of State Police, a
4 facility shall cooperate with that agency in arranging for the
5 Department of State Police to train facility staff on
6 preventing resident abuse and neglect.

7 (Source: P.A. 96-1373, eff. 7-29-10.)

8 Section 20. The ID/DD Community Care Act is amended by
9 changing Section 3-206 and by adding Sections 3-202.05 and
10 3-206.06 as follows:

11 (210 ILCS 47/3-202.05 new)

12 Sec. 3-202.05. Staffing ratios.

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

15 (1) registered nurses;

16 (2) licensed practical nurses;

17 (3) certified nurse assistants;

18 (4) psychiatric services rehabilitation aides;

19 (5) rehabilitation and therapy aides;

20 (6) psychiatric services rehabilitation coordinators;

21 (7) assistant directors of nursing;

22 (8) 50% of the Director of Nurses' time; and

23 (9) 30% of the Social Services Directors' time.

24 An employee listed in any of items (1) through (7) shall be

1 counted as direct care staff to the extent the individual
2 actually provides direct care to residents, including any
3 ancillary time the individual spends recording the direct care
4 he or she has provided to residents. An individual's time spent
5 on scheduled breaks, in training (other than one-on-one
6 demonstration and practice of direct care techniques with a
7 resident), making appointments, or serving other functions not
8 in the presence of a resident, shall not be considered "direct
9 care".

10 (b) Light intermediate care shall be staffed at the same
11 staffing ratio as intermediate care.

12 (c) Facilities shall notify the Department within 60 days
13 after the effective date of this amendatory Act of the 97th
14 General Assembly, in a form and manner prescribed by the
15 Department, of the staffing ratios in effect on the effective
16 date of this amendatory Act of the 97th General Assembly for
17 both intermediate and skilled care and the number of residents
18 receiving each level of care.

19 (d) Minimum staffing ratios shall be increased as follows:

20 (1) Effective January 1, 2013, the minimum staffing
21 ratios shall be increased to 3.4 hours of nursing and
22 personal care each day for a resident needing skilled care
23 and 2.3 hours of nursing and personal care each day for a
24 resident needing intermediate care.

25 (2) Effective January 1, 2014, the minimum staffing
26 ratios shall be increased to 3.8 hours of nursing and

1 personal care each day for a resident needing skilled care
2 and 2.5 hours of nursing and personal care each day for a
3 resident needing intermediate care.

4 (210 ILCS 47/3-206)

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

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

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

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

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

1 employment.

2 (4) Have completed at least 10 ~~8~~ years of grade school
3 or provide proof of equivalent knowledge.

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

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

24 The facility shall develop and implement procedures
25 and at least 6 hours of quarterly in-service training,
26 which shall be approved by the Department, for an ongoing

1 review process, which shall take place within the facility,
2 for nursing assistants, habilitation aides, and child care
3 aides. The facility shall retain records of all staff
4 in-service training and shall provide such records to the
5 Department upon request. At least half of each quarter of
6 in-service training shall be one-on-one direct resident
7 care demonstration and practice of patient care
8 techniques.

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

22 (6) Be familiar with and have general skills related to
23 resident care.

24 (a-0.5) An educational entity, other than a secondary
25 school, conducting a nursing assistant, habilitation aide, or
26 child care aide training program shall initiate a criminal

1 history record check in accordance with the Health Care Worker
2 Background Check Act prior to entry of an individual into the
3 training program. A secondary school may initiate a criminal
4 history record check in accordance with the Health Care Worker
5 Background Check Act at any time during or after a training
6 program.

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

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

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

25 (d) Proof of compliance by each employee with the
26 requirements set out in this Section shall be maintained for

1 each such employee by each facility in the individual personnel
2 folder of the employee. Proof of training shall be obtained
3 only from the health care worker registry.

4 (e) Each facility shall obtain access to the health care
5 worker registry's web application, maintain the employment and
6 demographic information relating to each employee, and verify
7 by the category and type of employment that each employee
8 subject to this Section meets all the requirements of this
9 Section.

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

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

25 The Department's rules shall provide that such training may
26 be conducted in house at each facility subject to the

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

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

17 (210 ILCS 47/3-206.06 new)

18 Sec. 3-206.06. Dementia-specific orientation.

19 (a) A facility that admits or retains persons with
20 Alzheimer's disease or other dementias shall give all staff who
21 have any direct contact with these residents at least 4 hours
22 of dementia-specific orientation within their first 7 days of
23 employment. Nurses, nursing assistants, and social service and
24 activities staff who work with these residents shall, within
25 their first 45 days of employment, receive a minimum of 12

1 additional hours of orientation specifically related to the
2 care of persons with Alzheimer's disease and other dementias.
3 All staff who have any direct contact with these residents
4 shall have at least 12 hours of dementia-specific education and
5 training annually thereafter.

6 (b) The Department shall specify the content of the
7 orientation and the annual education and training.

8 Section 25. The Specialized Mental Health Rehabilitation
9 Act is amended by changing Sections 2-208, 3-109, 3-117, 3-119,
10 3-202, 3-202.2b, 3-206, 3-207, 3-304.1, and 3-808.5 and by
11 adding Sections 1-114.2, 2-218, 3-202.6, and 3-206.06, as
12 follows:

13 (210 ILCS 48/1-114.2 new)

14 Sec. 1-114.2. Liability insurance. "Liability insurance"
15 means insurance on risks based upon neglect of a resident for
16 which a licensee is or may be responsible.

17 (210 ILCS 48/2-208)

18 Sec. 2-208. Notice of ~~imminent~~ death, unusual incident,
19 abuse, or neglect.

20 (a) A facility shall immediately notify the resident's next
21 of kin, representative and physician of the resident's death or
22 when the resident's death appears to be imminent. A facility
23 shall notify the Department by telephone of a resident's death

1 within 24 hours after the resident's death. The facility shall
2 notify the Department of the death of a facility resident that
3 does not occur in the facility immediately upon learning of the
4 death. A facility shall promptly notify the coroner or medical
5 examiner of a resident's death in a manner and form to be
6 determined by the Department after consultation with the
7 coroner or medical examiner of the county in which the facility
8 is located. In addition to notice to the Department by
9 telephone, the Department shall require the facility to submit
10 written notification of the death of a resident within 72 hours
11 after the death, including a report of any medication errors or
12 other incidents that occurred, within 30 days after the
13 resident's death. A facility's failure to comply with this
14 subsection shall constitute a Type "B" violation.

15 (b) A facility shall immediately notify a resident's next
16 of kin, guardian, or representative of any unusual incident,
17 abuse, or neglect involving the resident. A facility shall
18 immediately notify the Department by telephone of any unusual
19 incident, abuse, or neglect required to be reported pursuant to
20 State law or administrative rule. In addition to notice to the
21 Department by telephone, the Department shall require the
22 facility to submit written notification of any unusual
23 incident, abuse, or neglect within one day after the unusual
24 incident, abuse, or neglect occurs. A facility's failure to
25 comply with this subsection shall constitute a Type "B"
26 violation. For purposes of this subsection, "unusual incident"

1 means any of the following: a serious injury; an unscheduled
2 hospital visit for treatment of serious injury; a 9-1-1 call
3 for emergency services directly relating to a resident threat;
4 or stalking of staff, a resident, or any other person.

5 (Source: P.A. 97-38, eff. 6-28-11.)

6 (210 ILCS 48/2-218 new)

7 Sec. 2-218. Notification of violations or deficiencies.
8 When the Department issues any notice pursuant to Section
9 3-119, 3-301, 3-303, 3-307, or 3-702 of this Act, or when the
10 Centers for Medicare and Medicaid Services (CMS) issues a
11 notice of federal Medicaid certification deficiencies, the
12 facility receiving the notice shall provide notification of the
13 violations or deficiencies, within 10 days after receiving the
14 notice, to (i) every resident identified or referred to
15 anywhere within the Department's notice of violations or the
16 CMS Form 2567 (Statement of Deficiencies and Plan of
17 Correction) as having received care or services that violated
18 State or federal standards and (ii) the guardian or resident's
19 representative of every such resident. The notification
20 provided by the facility shall include a Department-prescribed
21 notification letter as determined by rule and a copy of the
22 Department's notice of violations and CMS Form 2567, if any. A
23 facility's failure to provide notification pursuant to this
24 Section to a resident and the resident's representative or
25 guardian, if any, shall constitute a Type "B" violation.

1 (210 ILCS 48/3-109)

2 Sec. 3-109. Issuance of license based on Director's
3 findings. Upon receipt and review of an application for a
4 license made under this Article and inspection of the applicant
5 facility under this Article, the Director shall issue a license
6 if he or she finds:

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

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

19 (3) that the facility is covered by liability insurance
20 as required by this Act; and

21 (4) ~~(3)~~ That the facility is in substantial compliance
22 with this Act, and such other requirements for a license as
23 the Department by rule may establish under this Act.

24 (Source: P.A. 97-38, eff. 6-28-11.)

1 (210 ILCS 48/3-117)

2 Sec. 3-117. Denial of license; grounds. An application for
3 a license may be denied for any of the following reasons:

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

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

15 (3) Personnel insufficient in number or unqualified by
16 training or experience to properly care for the proposed
17 number and type of residents.

18 (4) Insufficient financial or other resources to
19 operate and conduct the facility in accordance with
20 standards promulgated by the Department under this Act,
21 including failure to have or maintain liability insurance
22 as required by this Act, and in accordance with contractual
23 obligations assumed by a recipient of a grant under the
24 Equity in Long-term Care Quality Act and the plan (if
25 applicable) submitted by a grantee for continuing and
26 increasing adherence to best practices in providing

1 high-quality nursing home care.

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

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

20 (7) That the facility is in receivership and the
21 proposed licensee has not submitted a specific detailed
22 plan to bring the facility into compliance with the
23 requirements of this Act and with federal certification
24 requirements, if the facility is certified, and to keep the
25 facility in such compliance.

26 (Source: P.A. 97-38, eff. 6-28-11.)

1 (210 ILCS 48/3-119)

2 Sec. 3-119. Suspension, revocation, or refusal to renew
3 license.

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

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

12 (A) termination of Medicare or Medicaid
13 certification by the Centers for Medicare and Medicaid
14 Services; or

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

21 (2) Conviction of the licensee, or of the person
22 designated to manage or supervise the facility, of a
23 felony, or of 2 or more misdemeanors involving moral
24 turpitude, during the previous 5 years as shown by a
25 certified copy of the record of the court of conviction.

1 (3) Personnel are insufficient in number or
2 unqualified by training or experience to properly care for
3 the number and type of residents served by the facility.

4 (4) Financial or other resources are insufficient to
5 conduct and operate the facility in accordance with
6 standards promulgated by the Department under this Act,
7 including that the facility failed to maintain liability
8 insurance coverage as required by this Act at some time
9 during the term of its license.

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
25 Department shall send notice to the facility and hold a hearing
26 as 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. 97-38, eff. 6-28-11.)

1 (210 ILCS 48/3-202)

2 Sec. 3-202. Standards for facilities. The Department shall
3 prescribe minimum standards for facilities. These standards
4 shall regulate:

5 (1) Location and construction of the facility,
6 including plumbing, heating, lighting, ventilation, and
7 other physical conditions which shall ensure the health,
8 safety, and comfort of residents and their protection from
9 fire hazard;

10 (2) Number and qualifications of all personnel,
11 including management and nursing personnel, having
12 responsibility for any part of the care given to residents;
13 specifically, the Department shall establish staffing
14 ratios for facilities which shall specify the number of
15 staff hours per resident of care that are needed for
16 professional nursing care for various types of facilities
17 or areas within facilities and shall require consistent
18 assignment of the same nursing and other direct care staff
19 to the same residents, to the extent circumstances within
20 the control of the facility permit such assignment and
21 respecting requests by staff for reassignment;

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

26 (4) Diet related to the needs of each resident based on

1 good nutritional practice and on recommendations which may
2 be made by the physicians attending the resident;

3 (5) Equipment essential to the health and welfare of
4 the residents;

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

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

9 (8) Adequate accommodations, staff and services for
10 the number and types of residents for whom the facility is
11 licensed to care, including standards for temperature and
12 relative humidity within comfort zones determined by the
13 Department based upon a combination of air temperature,
14 relative humidity and air movement. Such standards shall
15 also require facility plans that provide for health and
16 comfort of residents at medical risk as determined by the
17 attending physician whenever the temperature and relative
18 humidity are outside such comfort zones established by the
19 Department. The standards must include a requirement that
20 areas of a facility used by residents of the facility be
21 air-conditioned and heated by means of operable
22 air-conditioning and heating equipment. The areas subject
23 to this air-conditioning and heating requirement include,
24 without limitation, bedrooms or common areas such as
25 sitting rooms, activity rooms, living rooms, community
26 rooms, and dining rooms;

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

4 (10) Maintenance of minimum financial or other
5 resources necessary to meet the standards established
6 under this Section, and to operate and conduct the facility
7 in accordance with this Act.

8 (Source: P.A. 97-38, eff. 6-28-11.)

9 (210 ILCS 48/3-202.2b)

10 Sec. 3-202.2b. Certification of specialized mental health
11 rehabilitation facilities.

12 (a) The Department shall file with the Joint Committee on
13 Administrative Rules, pursuant to the Illinois Administrative
14 Procedure Act, proposed rules or proposed amendments to
15 existing rules to establish a special certification program
16 that provides for psychiatric rehabilitation services that are
17 required to be offered by a facility licensed under this Act
18 that serves residents with serious mental illness. Compliance
19 with standards promulgated pursuant to this Section must be
20 demonstrated before a facility licensed under this Act is
21 eligible to become certified under this Section and annually
22 thereafter.

23 (b) No facility shall establish, operate, maintain, or
24 offer psychiatric rehabilitation services, or admit, retain,
25 or seek referrals of a resident with a serious mental illness

1 diagnosis, unless and until a valid certification, which
2 remains unsuspended, unrevoked, and unexpired, has been
3 issued.

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

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

1 with serious mental illness have been discharged.

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

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

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

25 (h) The Department shall establish requirements for
26 certification that augment current quality of care standards

1 for facilities serving residents with serious mental illness,
2 which shall include admission, discharge planning, psychiatric
3 rehabilitation services, development of age group appropriate
4 treatment plan goals and services, behavior management
5 services, coordination with community mental health services,
6 staff qualifications and training, clinical consultation,
7 resident access to the outside community, and appropriate
8 environment and space for resident programs, recreation,
9 privacy, and any other issue deemed appropriate by the
10 Department. The augmented standards shall at a minimum include,
11 but need not be limited to, the 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. When no psychiatric services rehabilitation
19 coordinator is in the facility, there shall be at least one
20 such person on call and available to respond to emergencies
21 in the facility.

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

26 (3) Training for all new employees specific to the care

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

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

1 (5) Room selection and appropriateness of roommate
2 assignment, including the assignment of female residents
3 to female-only units or floors and, to the extent possible
4 (taking into account the availability of staff and staff
5 preference), the assignment of only female staff to work on
6 those floors or units.

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

12 (7) Substance abuse screening and management and
13 documented referral relationships with certified substance
14 abuse treatment providers.

15 (8) Administration of psychotropic medications to a
16 non-objecting resident with serious mental illness who is
17 incapable of giving informed consent, in compliance with
18 the applicable provisions of the Mental Health and
19 Developmental Disabilities Code. Administration of
20 psychotropic medications to an objecting resident, only
21 with a court order authorizing such administration.

22 (i) The Department shall establish a certification fee
23 schedule by rule, in consultation with advocates, nursing
24 homes, and representatives of associations representing long
25 term care facilities. Rules proposed under this Section shall
26 take effect 180 days after being approved by the Joint

1 Committee on Administrative Rules.

2 (Source: P.A. 97-38, eff. 6-28-11.)

3 (210 ILCS 48/3-202.6 new)

4 Sec. 3-202.6. Liability insurance coverage required. No
5 person may establish, operate, maintain, offer, or advertise a
6 facility within this State without providing to the Department
7 of Public Health proof of liability insurance coverage in an
8 amount not less than \$1,000,000 per occurrence. This
9 requirement may not be waived. Failure to maintain such
10 liability insurance coverage during the term of a facility's
11 license shall be a separate Type "B" violation for each
12 resident of the facility for each month, or part of a month, in
13 which the facility did not have the minimum required liability
14 insurance.

15 (210 ILCS 48/3-206)

16 Sec. 3-206. Nursing assistants, habilitation aids, and
17 child care aides. The Department shall prescribe a curriculum
18 for training nursing assistants, habilitation aides, and child
19 care aides.

20 (a) No person, except a volunteer who receives no
21 compensation from a facility and is not included for the
22 purpose of meeting any staffing requirements set forth by the
23 Department, shall act as a nursing assistant, habilitation
24 aide, or child care aide in a facility, nor shall any person,

1 under any other title, not licensed, certified, or registered
2 to render medical care by the Department of Professional
3 Regulation, assist with the personal, medical, or nursing care
4 of residents in a facility, unless such person meets the
5 following requirements:

6 (1) Be at least 18 ~~16~~ years of age, of temperate habits
7 and good moral character, honest, reliable, and
8 trustworthy.

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

12 (3) Provide evidence of employment or occupation, if
13 any, and residence for 2 years prior to his or her present
14 employment.

15 (4) Have completed at least 10 ~~8~~ years of grade school
16 or provide proof of equivalent knowledge.

17 (5) Begin a current course of training for nursing
18 assistants, habilitation aides, or child care aides,
19 approved by the Department, within 45 days of initial
20 employment in the capacity of a nursing assistant,
21 habilitation aide, or child care aide at any facility. Such
22 courses of training shall be successfully completed within
23 120 days of initial employment in the capacity of nursing
24 assistant, habilitation aide, or child care aide at a
25 facility. Nursing assistants, habilitation aides, and
26 child care aides who are enrolled in approved courses in

1 community colleges or other educational institutions on a
2 term, semester, or trimester basis shall be exempt from the
3 120-day completion time limit. The Department shall adopt
4 rules for such courses of training. These rules shall
5 include procedures for facilities to carry on an approved
6 course of training within the facility.

7 The Department may accept comparable training in lieu
8 of the 120-hour course for student nurses, foreign nurses,
9 military personnel, or employes of the Department of Human
10 Services.

11 The facility shall develop and implement procedures
12 and at least 6 hours of quarterly in-service training,
13 which shall be approved by the Department, for an ongoing
14 review process, which shall take place within the facility,
15 for nursing assistants, habilitation aides, and child care
16 aides. The facility shall retain records of all staff
17 in-service training and shall provide such records to the
18 Department upon request. At least half of each quarter of
19 in-service training shall be one-on-one direct resident
20 care demonstration and practice of patient care
21 techniques.

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

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

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

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

20 (a-1) Nursing assistants, habilitation aides, or child
21 care aides seeking to be included on the registry maintained
22 under Section 3-206.01 must authorize the Department of Public
23 Health or its designee to request a criminal history record
24 check in accordance with the Health Care Worker Background
25 Check Act and submit all necessary information. An individual
26 may not newly be included on the registry unless a criminal

1 history record check has been conducted with respect to the
2 individual.

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

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

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

16 (e) Each facility shall obtain access to the health care
17 worker registry's web application, maintain the employment and
18 demographic information relating to each employee, and verify
19 by the category and type of employment that each employee
20 subject to this Section meets all the requirements of this
21 Section.

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

24 (g) Each facility that admits persons who are diagnosed as
25 having Alzheimer's disease or related dementias shall require
26 all nursing assistants, habilitation aides, or child care

1 aides, who did not receive 12 hours of training in the care and
2 treatment of such residents during the training required under
3 paragraph (5) of subsection (a), to obtain 12 hours of in-house
4 training in the care and treatment of such residents. If the
5 facility does not provide the training in-house, the training
6 shall be obtained from other facilities, community colleges, or
7 other educational institutions that have a recognized course
8 for such training. The Department shall, by rule, establish a
9 recognized course for such training. The Department's rules
10 shall provide that such training may be conducted in-house at
11 each facility subject to the requirements of this subsection,
12 in which case such training shall be monitored by the
13 Department.

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

1 (Source: P.A. 97-38, eff. 6-28-11.)

2 (210 ILCS 48/3-206.06 new)

3 Sec. 3-206.06. Dementia-specific orientation.

4 (a) A facility that admits or retains persons with
5 Alzheimer's disease or other dementias shall give all staff who
6 have any direct contact with these residents at least 4 hours
7 of dementia-specific orientation within their first 7 days of
8 employment. Nurses, nursing assistants, and social service and
9 activities staff who work with these residents shall, within
10 their first 45 days of employment, receive a minimum of 12
11 additional hours of orientation specifically related to the
12 care of persons with Alzheimer's disease and other dementias.
13 All staff who have any direct contact with these residents
14 shall have at least 12 hours of dementia-specific education and
15 training annually thereafter.

16 (b) The Department shall specify the content of the
17 orientation and the annual education and training.

18 (210 ILCS 48/3-207)

19 Sec. 3-207. Statement of ownership.

20 (a) As a condition of the issuance or renewal of the
21 license of any facility, the applicant shall file a statement
22 of ownership. The applicant shall update the information
23 required in the statement of ownership within 10 days of any
24 change.

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

2 (1) The name, address, telephone number, occupation or
3 business activity, business address and business telephone
4 number of the person who is the owner of the facility and
5 every person who owns the building in which the facility is
6 located, if other than the owner of the facility, which is
7 the subject of the application or license; and if the owner
8 is a partnership or corporation, the name of every partner
9 and stockholder of the owner;

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

14 (3) Other information necessary to determine the
15 identity and qualifications of an applicant or licensee to
16 operate a facility in accordance with this Act as required
17 by the Department in regulations.

18 (c) The information in the statement of ownership shall be
19 public information and shall be available from the Department.

20 (d) A facility which is owned by a chain organization as
21 defined by the Centers for Medicare and Medicaid Services shall
22 submit annually to the Department an electronic copy of the
23 Home Office Cost Statement required to be submitted by the home
24 office of the chain to the United States Department of Health
25 and Human Services. The facility shall send the cost statement
26 in electronic form to the Department forthwith after it submits

1 the statement to the Department of Health and Human Services.
2 Each week that a facility fails to comply with the requirements
3 of this subsection shall be cited as a separate administrative
4 warning.

5 (Source: P.A. 97-38, eff. 6-28-11.)

6 (210 ILCS 48/3-304.1)

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

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

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

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

15 (3) deficiencies and plans of correction;

16 (4) enforcement remedies;

17 (5) penalty letters;

18 (6) designation of penalty monies;

19 (7) the U.S. Department of Health and Human Services'
20 special projects or federally required inspections;

21 (8) advisory standards;

22 (9) deficiency free surveys;

23 (10) enforcement actions and enforcement summaries;

24 ~~and~~

25 (11) distressed facilities; =

1 (12) a link to the most recent facility cost report
2 filed with the Department of Healthcare and Family
3 Services;

4 (13) a link to the most recent Consumer Choice
5 Information Report filed with the Department on Aging;

6 (14) whether the facility is part of a chain; the
7 facility shall be deemed part of a chain if it meets
8 criteria established by the United States Department of
9 Health and Human Services that identify it as owned by a
10 chain organization; and

11 (15) a copy of the latest Home Office Cost Statement,
12 if any, filed by the home office of the owner of the
13 facility with the United States Department of Health and
14 Human Services.

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

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

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

23 (e) The Department shall cooperate with a tax-exempt,
24 not-for-profit organization dedicated solely to advocacy for
25 long-term care residents to make available in electronic form
26 the results of all surveys, including any enforcement actions,

1 and current information about individual nursing home
2 staffing, in the shortest practicable time after they become
3 publicly available. The data shall be provided without charge,
4 so long as the organization charges no fee for sharing the
5 information with the general public. If the organization makes
6 the data available on a website, the Department shall create a
7 link to the website on the Department's website.

8 (Source: P.A. 97-38, eff. 6-28-11.)

9 (210 ILCS 48/3-808.5)

10 Sec. 3-808.5. Nursing home fraud, abuse, and neglect
11 prevention and reporting.

12 (a) Every licensed long-term care facility that receives
13 Medicaid funding shall prominently display in its lobby, in its
14 dining areas, and on each floor of the facility information
15 approved by the Illinois Medicaid Fraud Control Unit on how to
16 report fraud, abuse, and neglect. In addition, information
17 regarding the reporting of fraud, abuse, and neglect shall be
18 provided to each resident at the time of admission and to the
19 resident's family members or emergency contacts, or to both the
20 resident's family members and his or her emergency contacts.

21 (b) Any owner or licensee of a long-term care facility
22 licensed under this Act shall be responsible for the collection
23 and maintenance of any and all records required to be
24 maintained under this Section and any other applicable
25 provisions of this Act, and as a provider under the Illinois

1 Public Aid Code, and shall be responsible for compliance with
2 all of the disclosure requirements under this Section. All
3 books and records and other papers and documents that are
4 required to be kept, and all records showing compliance with
5 all of the disclosure requirements to be made pursuant to this
6 Section, shall be kept at the facility and shall, at all times
7 during business hours, be subject to inspection by any law
8 enforcement or health oversight agency or its duly authorized
9 agents or employees.

10 (c) Any report of abuse and neglect of residents made by
11 any individual in whatever manner, including, but not limited
12 to, reports made under Sections 2-107 and 3-610 of this Act, or
13 as provided under the Abused and Neglected Long Term Care
14 Facility Residents Reporting Act, that is made to an
15 administrator, a director of nursing, or any other person with
16 management responsibility at a long-term care facility must be
17 disclosed to the owners and licensee of the facility within 24
18 hours of the report. The owners and licensee of a long-term
19 care facility shall maintain all records necessary to show
20 compliance with this disclosure requirement.

21 (d) Any person with an ownership interest in a long-term
22 care facility licensed by the Department must, within 30 days
23 of the effective date of this Act, disclose the existence of
24 any ownership interest in any vendor who does business with the
25 facility. The disclosures required by this subsection shall be
26 made in the form and manner prescribed by the Department.

1 Licensed long-term care facilities who receive Medicaid
2 funding shall submit a copy of the disclosures required by this
3 subsection to the Illinois Medicaid Fraud Control Unit. The
4 owners and licensee of a long-term care facility shall maintain
5 all records necessary to show compliance with this disclosure
6 requirement.

7 (e) Notwithstanding the provisions of Section 3-318 of this
8 Act, and in addition thereto, any person, owner, or licensee
9 who willfully fails to keep and maintain, or willfully fails to
10 produce for inspection, books and records, or willfully fails
11 to make the disclosures required by this Section, is guilty of
12 a Class A misdemeanor. A second or subsequent violation of this
13 Section shall be punishable as a Class 4 felony.

14 (f) Any owner or licensee who willfully files or willfully
15 causes to be filed a document with false information with the
16 Department, the Department of Healthcare and Family Services,
17 or the Illinois Medicaid Fraud Control Unit or any other law
18 enforcement agency, is guilty of a Class A misdemeanor.

19 (g) At the request of the Department of State Police, a
20 facility shall cooperate with that agency in arranging for the
21 Department of State Police to train facility staff on
22 preventing resident abuse and neglect.

23 (Source: P.A. 97-38, eff. 6-28-11.)

24 Section 90. The State Mandates Act is amended by adding
25 Section 8.36 as follows:

1 (30 ILCS 805/8.36 new)

2 Sec. 8.36. Exempt mandate. Notwithstanding Sections 6 and 8
3 of this Act, no reimbursement by the State is required for the
4 implementation of any mandate created by this amendatory Act of
5 the 97th General Assembly.

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Statutes amended in order of appearance

3 20 ILCS 105/4.04 from Ch. 23, par. 6104.04
4 20 ILCS 3960/3 from Ch. 111 1/2, par. 1153
5 20 ILCS 3960/14.1
6 210 ILCS 45/1-114.2 new
7 210 ILCS 45/2-208 from Ch. 111 1/2, par. 4152-208
8 210 ILCS 45/2-218 new
9 210 ILCS 45/3-109 from Ch. 111 1/2, par. 4153-109
10 210 ILCS 45/3-117 from Ch. 111 1/2, par. 4153-117
11 210 ILCS 45/3-119 from Ch. 111 1/2, par. 4153-119
12 210 ILCS 45/3-202 from Ch. 111 1/2, par. 4153-202
13 210 ILCS 45/3-202.05
14 210 ILCS 45/3-202.2b
15 210 ILCS 45/3-202.6 new
16 210 ILCS 45/3-206 from Ch. 111 1/2, par. 4153-206
17 210 ILCS 45/3-206.06 new
18 210 ILCS 45/3-207 from Ch. 111 1/2, par. 4153-207
19 210 ILCS 45/3-304.1
20 210 ILCS 45/3-808.5
21 210 ILCS 47/3-202.05 new
22 210 ILCS 47/3-206
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24 210 ILCS 48/1-114.2 new
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- 1 210 ILCS 48/2-218 new
- 2 210 ILCS 48/3-109
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- 10 210 ILCS 48/3-207
- 11 210 ILCS 48/3-304.1
- 12 210 ILCS 48/3-808.5
- 13 30 ILCS 805/8.36 new