

AN ACT concerning health facilities.

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

ARTICLE I. SHORT TITLE, PRIOR LAW, AND DEFINITIONS

Section 1-101. Short title. This Act may be cited as the Specialized Mental Health Rehabilitation Act.

Section 1-101.01. Legislative findings. Illinois is committed to providing behavioral health services in the most community-integrated settings possible, based on the needs of residents who qualify for State support. This goal is consistent with federal law and regulations and recent court decrees. A variety of services and settings are necessary to ensure that people with serious mental illness receive high quality care that is oriented towards their safety, rehabilitation, and recovery.

Residential settings are an important component of the system of behavioral health care that Illinois is developing. When residential treatment is necessary these facilities must offer high quality rehabilitation and recover care, help residents achieve and maintain their highest level of independent functioning, and prepare them to live in permanent supportive housing and other community-integrated settings.

Facilities licensed under the Specialized Mental Health Rehabilitation Act will be models of such residential care, demonstrating the elements essential to help people with serious mental illness transition to more independent living and return to healthy, productive lives.

Section 1-101.05. Prior law.

(a) This Act provides for licensure of long-term care facilities that specialize in services to individuals with a severe mental illness under this Act instead of under the Nursing Home Care Act. On and after the effective date of this Act, those facilities shall be governed by this Act instead of the Nursing Home Care Act.

(b) If any other Act of the 97th General Assembly changes, adds, or repeals a provision of the Nursing Home Care Act that is the same as or substantially similar to a provision of this Act, then that change, addition, or repeal in the Nursing Home Care Act shall be construed together with this Act.

(c) Nothing in this Act affects the validity or effect of any finding, decision, or action made or taken by the Department or the Director under the Nursing Home Care Act before the effective date of this Act with respect to a facility subject to licensure under this Act. That finding, decision, or action shall continue to apply to the facility on and after the effective date of this Act. Any finding, decision, or action with respect to the facility made or taken

on or after the effective date of this Act shall be made or taken as provided in this Act. All consent decrees that apply to facilities federally designated as Institutions for the Mentally Diseased shall also apply to facilities licensed under the Specialized Mental Health Facilities Act.

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

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

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

- (1) Enter any facility;
 - (2) Communicate privately and without restriction with any resident who consents to the communication;
 - (3) Seek consent to communicate privately and without restriction with any resident;
 - (4) Inspect the clinical and other records of a resident with the express written consent of the resident;
- or
- (5) Observe all areas of the facility except the living area of any resident who protests the observation.

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

Section 1-106. Affiliate. "Affiliate" means:

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

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

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

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

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

(1) "An invalid report" means any report made under

this Act for which it is determined after an investigation that no credible evidence of abuse, neglect or other deficiency relating to the complaint exists;

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

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

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

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

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

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

Section 1-113. Facility. "Facility" means a specialized mental health rehabilitation facility, whether operated for profit or not, which provides, through its ownership or management, personal care or nursing for 3 or more persons not related to the applicant or owner by blood or marriage. It includes facilities that meet the following criteria:

(i) 100% of the resident population of the facility has a diagnosis of serious mental illness;

(ii) no more than 15% of the resident population of the facility is 65 years of age or older;

(iii) none of the residents have a primary diagnosis of moderate, severe, or profound mental retardation;

(iv) meet standards established in Subpart T of Section 300 of Title 77 of the Illinois Administrative Code as it existed on June 30, 2011. Facilities licensed under this Act shall continue to meet standards established under this portion of the Illinois Administrative Code until such time as new rules are adopted pursuant to this Act; and

(v) must participate in the Demonstration Project for Mental Health Services in Nursing Facilities established under Department of Healthcare and Family Services rules at 89 Ill. Adm. Code 145.10 and its successor; to be considered for participation in this Demonstration Project for Mental Health Services in Nursing Facilities, a facility must meet all standards established in this rulemaking (89 Ill. Adm. Code) or its successor; this

demonstration project shall be extended through June 30, 2014.

"Facility" does not include the following:

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

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

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

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

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

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

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

(8) any "supportive residence" licensed under the Supportive Residences Licensing Act;

(9) any "supportive living facility" in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(10) any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(11) an Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act;

(12) a home, institution, or other place operated by or under the authority of the Illinois Department of Veterans' Affairs;

(13) any facility licensed under the MR/DD Community Care Act; or

(14) any facility licensed under the Nursing Home Care Act.

Section 1-114. Guardian. "Guardian" means a person

appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975, as now or hereafter amended.

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

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

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

Community Protection Act.

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

(3) Is any other resident as determined by the Department of State Police.

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

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

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

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

Section 1-117. Neglect. "Neglect" means a facility's

failure to provide, or willful withholding of, adequate medical care, mental health treatment, psychiatric rehabilitation, personal care, or assistance with activities of daily living that is necessary to avoid physical harm, mental anguish, or mental illness of a resident.

Section 1-118. Nurse. "Nurse" means a registered nurse or a licensed practical nurse as defined in the Nurse Practice Act.

Section 1-119. Owner. "Owner" means the individual, partnership, corporation, association, or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under this Act.

Section 1-120. Personal care. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs, maintenance, or general supervision and oversight of the physical and mental well-being of an individual, who is incapable of maintaining a private,

independent residence or who is incapable of managing his or her person whether or not a guardian has been appointed for such individual.

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

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

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

Section 1-122. Resident. "Resident" means a person residing in and receiving personal care, mental health treatment, or psychiatric rehabilitation from a facility.

Section 1-123. Resident's representative. "Resident's

representative" means a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his or her representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed.

Section 1-124. Sheltered care. "Sheltered care" means maintenance and personal care.

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

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

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

(2) immediately succeeds a full quarter, semester, or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester, or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester, or

trimester shall commence immediately following the term of employment.

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

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

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

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

Section 1-129. Type 'A' violation. A "Type 'A' violation" means a violation of this Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility that (i) creates a substantial probability that the risk of death or serious mental or physical harm to a resident may result therefrom or (ii) has resulted in actual physical or mental harm to a

resident.

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

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

ARTICLE II. RIGHTS AND RESPONSIBILITIES

PART 1. RESIDENT RIGHTS

Section 2-101. Constitutional and legal rights. No resident shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of his or her status as a resident of a facility.

Section 2-101.1. Spousal impoverishment. All new residents

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

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

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

The facility shall provide adequate storage space for the personal property of the resident. The facility shall provide a means of safeguarding small items of value for its residents in their rooms or in any other part of the facility so long as the residents have daily access to such valuables. The facility shall make reasonable efforts to prevent loss and theft of residents' property. Those efforts shall be appropriate to the

particular facility and may include, but are not limited to, staff training and monitoring, labeling property, and frequent property inventories. The facility shall develop procedures for investigating complaints concerning theft of residents' property and shall promptly investigate all such complaints.

Section 2-104. Medical treatment; records.

(a) A resident shall be permitted to retain the services of his or her own personal physician at his or her own expense or under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage. However, the facility is not liable for the negligence of any such personal physician. Every resident shall be permitted to obtain from his or her own physician or the physician attached to the facility complete and current information concerning his or her medical diagnosis, treatment and prognosis in terms and language the resident can reasonably be expected to understand. Every resident shall be permitted to participate in the planning of his or her total care and medical treatment to the extent that his or her condition permits. No resident shall be subjected to experimental research or treatment without first obtaining his or her informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review board appointed by the Director. The membership, operating procedures, and review criteria for the

institutional review board shall be prescribed under rules and regulations of the Department and shall comply with the requirements for institutional review boards established by the federal Food and Drug Administration. No person who has received compensation in the prior 3 years from an entity that manufactures, distributes, or sells pharmaceuticals, biologics, or medical devices may serve on the institutional review board.

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

the safety or efficacy of any care or treatment if the resident was under the care of the proposed researcher or a business associate when the care or treatment was given, unless the study is under the control of a researcher without any business relationship to any person or entity who could benefit from the findings of the study.

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

The institutional review board may exempt from ongoing review research or treatment initiated on a resident before the individual's admission to a facility and for which the board determines there is adequate ongoing oversight by another institutional review board. Nothing in this Section shall prevent a facility, any facility employee, or any other person from assisting or participating in any experimental research on or treatment of a resident, if the research or treatment began

before the person's admission to a facility, until the board has reviewed the research or treatment and decided to grant or deny approval or to exempt the research or treatment from ongoing review.

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

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

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

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

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

Section 2-104.2. Do-Not-Resuscitate Orders.

(a) Every facility licensed under this Act shall establish a policy for the implementation of physician orders limiting resuscitation such as those commonly referred to as "Do-Not-Resuscitate" orders. This policy may only prescribe the format, method of documentation and duration of any physician orders limiting resuscitation. Any orders under this policy shall be honored by the facility. The Department of Public Health Uniform DNR Advance Directive or a copy of that Advance Directive shall be honored by the facility.

(b) Within 30 days after admission, new residents who do not have a guardian of the person or an executed power of attorney for health care shall be provided with written notice, in a form and manner provided by rule of the Department, of

their right to provide the name of one or more potential health care surrogates that a treating physician should consider in selecting a surrogate to act on the resident's behalf should the resident lose decision-making capacity. The notice shall include a form of declaration that may be utilized by the resident to identify potential health care surrogates or by the facility to document any inability or refusal to make such a declaration. A signed copy of the resident's declaration of a potential health care surrogate or decision to decline to make such a declaration, or documentation by the facility of the resident's inability to make such a declaration, shall be placed in the resident's clinical record and shall satisfy the facility's obligation under this Section. Such a declaration shall be used only for informational purposes in the selection of a surrogate pursuant to the Health Care Surrogate Act. A facility that complies with this Section is not liable to any healthcare provider, resident, or resident's representative or any other person relating to the identification or selection of a surrogate or potential health care surrogate.

Section 2-104.3. Serious mental illness; rescreening.

(a) All persons admitted to a facility with a diagnosis of serious mental illness who remain in the facility for a period of 90 days shall be re-screened by the Department of Human Services or its designee at the end of the 90-day period, at 6 months, and annually thereafter to assess their continuing need

for facility care and shall be advised of all other available care options.

(b) The Department of Human Services, by rule, shall provide for a prohibition on conflicts of interest for pre-admission screeners. The rule shall provide for waiver of those conflicts by the Department of Human Services if the Department of Human Services determines that a scarcity of qualified pre-admission screeners exists in a given community and that, absent a waiver of conflict, an insufficient number of pre-admission screeners should be available. If a conflict is waived, the pre-admission screener shall disclose the conflict of interest to the screened individual in the manner provided for by rule of the Department of Human Services. For the purposes of this subsection, a "conflict of interest" includes, but is not limited to, the existence of a professional or financial relationship between (i) a PAS-MH corporate or a PAS-MH agent performing the rescreening and (ii) a community provider or long-term care facility.

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

Section 2-106. Restraints and confinements.

(a) For purposes of this Act:

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

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

(b) Neither restraints nor confinements shall be employed for the purpose of punishment or for the convenience of any facility personnel. No restraints or confinements shall be employed except as ordered by a physician who documents the need for such restraints or confinements in the resident's clinical record. Each facility licensed under this Act must

have a written policy to address the use of restraints and seclusion. The Department shall establish by rule the provisions that the policy must include, which, to the extent practicable, should be consistent with the requirements for participation in the federal Medicare program. Each policy shall include periodic review of the use of restraints.

(c) A restraint may be used only with the informed consent of the resident, the resident's guardian, or other authorized representative. A restraint may be used only for specific periods, if it is the least restrictive means necessary to attain and maintain the resident's highest practicable physical, mental or psychosocial well-being, including brief periods of time to provide necessary life-saving treatment. A restraint may be used only after consultation with appropriate health professionals, such as occupational or physical therapists, and a trial of less restrictive measures has led to the determination that the use of less restrictive measures would not attain or maintain the resident's highest practicable physical, mental or psychosocial well-being. However, if the resident needs emergency care, restraints may be used for brief periods to permit medical treatment to proceed unless the facility has notice that the resident has previously made a valid refusal of the treatment in question.

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

(e) Whenever a period of use of a restraint is initiated,

the resident shall be advised of his or her right to have a person or organization of his or her choosing, including the Guardianship and Advocacy Commission, notified of the use of the restraint. A recipient who is under guardianship may request that a person or organization of his or her choosing be notified of the restraint, whether or not the guardian approves the notice. If the resident so chooses, the facility shall make the notification within 24 hours, including any information about the period of time that the restraint is to be used. Whenever the Guardianship and Advocacy Commission is notified that a resident has been restrained, it shall contact the resident to determine the circumstances of the restraint and whether further action is warranted.

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

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

Section 2-106.1. Drug treatment.

(a) A resident shall not be given unnecessary drugs. An unnecessary drug is any drug used in an excessive dose,

including in duplicative therapy; for excessive duration; without adequate monitoring; without adequate indications for its use; or in the presence of adverse consequences that indicate the drug should be reduced or discontinued. The Department shall adopt, by rule, the standards for unnecessary drugs contained in interpretive guidelines issued by the United States Department of Health and Human Services for the purposes of administering Titles XVIII and XIX of the Social Security Act.

(b) Psychotropic medication shall not be prescribed without the informed consent of the resident, the resident's guardian, or other authorized representative. "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, antimanic, or antianxiety behavior modification or behavior management purposes in the latest editions of the AMA Drug Evaluations or the Physician's Desk Reference. The Department shall adopt, by rule, a protocol specifying how informed consent for psychotropic medication may be obtained or refused. The protocol shall require, at a minimum, a discussion between (i) the resident or the resident's authorized representative and (ii) the resident's physician, a registered pharmacist (who is not a dispensing pharmacist for the facility where the resident lives), or a licensed nurse about the possible risks and benefits of a recommended medication and the use of standardized consent forms designated by the Department. Each form developed by the

Department (i) shall be written in plain language, (ii) shall be able to be downloaded from the Department's official website, (iii) shall include information specific to the psychotropic medication for which consent is being sought, and (iv) shall be used for every resident for whom psychotropic drugs are prescribed. In addition to creating those forms, the Department shall approve the use of any other informed consent forms that meet criteria developed by the Department.

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

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

Section 2-106.2. Resident identification wristlet. No identification wristlets shall be employed except as ordered by

a physician who documents the need for such mandatory identification in the resident's clinical record. When identification bracelets are required, they must identify the resident's name, and the name and address of the facility issuing the identification wristlet.

Section 2-107. Abuse or neglect; duty to report. An owner, licensee, administrator, employee or agent of a facility shall not abuse or neglect a resident. It is the duty of any facility employee or agent who becomes aware of such abuse or neglect to report it as provided in the Abused and Neglected Long Term Care Facility Residents Reporting Act.

Section 2-108. Communications; visits; married residents. Every resident shall be permitted unimpeded, private, and uncensored communication of his or her choice by mail, public telephone, or visitation.

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

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

(c) The administrator shall ensure that space for visits is available and that facility personnel knock, except in an

emergency, before entering any resident's room.

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

(e) The administrator shall ensure that married residents residing in the same facility be allowed to reside in the same room within the facility unless there is no room available in the facility or it is deemed medically inadvisable by the residents' attending physician and so documented in the residents' medical records.

Section 2-109. Religion. A resident shall be permitted the free exercise of religion. Upon a resident's request, and if necessary at the resident's expense, the administrator shall

make arrangements for a resident's attendance at religious services of the resident's choice. However, no religious beliefs or practices, or attendance at religious services, may be imposed upon any resident.

Section 2-110. Access to residents.

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

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

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

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

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

(a-5) If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release.

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

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

(d) Notwithstanding paragraph (a) of this Section, the administrator of a facility may refuse access to the facility to any person if the presence of that person in the facility would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the facility, or if the person seeks access to the facility for

commercial purposes. Any person refused access to a facility may within 10 days request a hearing under Section 3-703. In that proceeding, the burden of proof as to the right of the facility to refuse access under this Section shall be on the facility.

Section 2-111. Discharge. A resident may be discharged from a facility after he or she gives the administrator, a physician, or a nurse of the facility written notice of his or her desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his or her guardian or if the resident is a minor, his or her parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well being.

Section 2-112. Grievances. A resident shall be permitted to present grievances on behalf of himself or herself or others to the administrator, the Long Term Care Facility Advisory Board, the residents' advisory council, State governmental agencies or other persons without threat of discharge or reprisal in any form or manner whatsoever. The administrator shall provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged.

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

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

PART 2. RESPONSIBILITIES

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

(1) Shall at the time of admission provide, in order of priority, each resident, or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written statement explaining to the resident and to the resident's spouse (a) their spousal impoverishment rights, as defined at Section 5-4 of the Illinois Public Aid Code, and at Section 303 of Title III of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360), and (b) the resident's rights regarding personal funds and listing the services for which the resident will be

charged. The facility shall obtain a signed acknowledgment from each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, that such person has received the statement.

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

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

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

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

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

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

(8) Shall return to the resident, or the person who executed the written authorization required in subsection (2) of this Section, upon written request, all or any part of the resident's funds given the facility for safekeeping, including

the interest accrued from deposits.

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

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

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

(12) If the facility is sold, shall provide the buyer with

a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner.

Section 2-201.5. Screening prior to admission.

(a) All persons age 18 or older seeking admission to a facility must be screened to determine the need for facility services prior to being admitted, regardless of income, assets, or funding source. In addition, any person who seeks to become eligible for medical assistance from the Medical Assistance Program under the Illinois Public Aid Code to pay for long term care services while residing in a facility must be screened prior to receiving those benefits. Screening for facility services shall be administered through procedures established by administrative rule. Screening may be done by agencies other than the Department as established by administrative rule. The Department of Healthcare and Family Services, in collaboration with the Department on Aging, the Department of Human Services, and the Department of Public Health, shall by rules provide for the gathering, during the screening process, of information relevant to determining each person's potential for placing other residents, employees, and visitors at risk of harm.

(a-1) For a person who needs mental health services, the screening shall also include an evaluation of whether there is permanent supportive housing, or an array of community mental health services, including but not limited to supportive

housing, assertive community treatment, and peer support services, that would enable the person to live in the community. The person shall be told about the existence of any such services that would enable the person to live safely and humanely and about available appropriate facility services that would enable the person to live safely and humanely, and the person shall be given the assistance necessary to avail himself or herself of any available services.

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

For any person entering a facility, the pre-screening agent shall make specific recommendations about what care and services the individual needs to receive, beginning at admission, to attain or maintain the individual's highest level of independent functioning and to live in the most integrated setting appropriate for his or her physical and personal care and developmental and mental health needs. These

recommendations shall be revised as appropriate by the pre-screening or re-screening agent based on the results of resident review and in response to changes in the resident's wishes, needs, and interest in transition.

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

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

(b) In addition to the screening required by subsection (a), a facility, shall, within 24 hours after admission, request a criminal history background check pursuant to the Uniform Conviction Information Act for all persons age 18 or older seeking admission to the facility, unless a background check was initiated by a hospital pursuant to subsection (d) of Section 6.09 of the Hospital Licensing Act. Background checks conducted pursuant to this Section shall be based on the resident's name, date of birth, and other identifiers as required by the Department of State Police. If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check, unless the fingerprint check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk which may be established by Departmental rule. A waiver issued pursuant to this Section shall be valid only while the resident is immobile or while the criteria supporting the waiver exist. The facility shall provide for or arrange for any required fingerprint-based checks to be taken on the premises of the facility. If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident.

(c) If the results of a resident's criminal history

background check reveal that the resident is an identified offender as defined in Section 1-114.01, the facility shall do the following:

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

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

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

All name-based and fingerprint-based criminal history record inquiries shall be submitted to the Department of State Police electronically in the form and manner prescribed by the Department of State Police. The Department of State Police may

charge the facility a fee for processing name-based and fingerprint-based criminal history record inquiries. The fee shall be deposited into the State Police Services Fund. The fee shall not exceed the actual cost of processing the inquiry.

(d) (Blank).

(e) The Department shall develop and maintain a de-identified database of residents who have injured facility staff, facility visitors, or other residents, and the attendant circumstances, solely for the purposes of evaluating and improving resident pre-screening and assessment procedures (including the Criminal History Report prepared under Section 2-201.6) and the adequacy of Department requirements concerning the provision of care and services to residents. A resident shall not be listed in the database until a Department survey confirms the accuracy of the listing. The names of persons listed in the database and information that would allow them to be individually identified shall not be made public. Neither the Department nor any other agency of State government may use information in the database to take any action against any individual, licensee, or other entity, unless the Department or agency receives the information independent of this subsection (e). All information collected, maintained, or developed under the authority of this subsection (e) for the purposes of the database maintained under this subsection (e) shall be treated in the same manner as information that is subject to Part 21 of Article VIII of the Code of Civil

Procedure.

Section 2-201.6. Criminal History Report.

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

(b) The Department of State Police shall complete the Criminal History Report within 10 business days after receiving information under subsection (a) that a resident is an identified offender.

(c) The Criminal History Report shall include, but not be limited to, the following:

(1) (Blank).

(2) (Blank).

(3) (Blank).

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

(4) An interview with the identified offender.

(5) (Blank).

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

(7) If the identified offender is a convicted or registered sex offender, a review of any and all sex offender evaluations conducted on that offender. If there is no sex offender evaluation available, the Department of State Police shall arrange, through the Department of Public Health, for a sex offender evaluation to be conducted on the identified offender. If the convicted or registered sex offender is under supervision by the Illinois Department of Corrections or a county probation department, the sex offender evaluation shall be arranged by and at the expense of the supervising agency. All evaluations conducted on convicted or registered sex offenders under this Act shall be conducted by sex offender evaluators approved by the Sex Offender Management Board.

(d) The Department of State Police shall provide the Criminal History Report to a licensed forensic psychologist. After (i) consideration of the Criminal History Report, (ii) consultation with the facility administrator or the facility medical director, or both, regarding the mental and physical condition of the identified offender, and (iii) reviewing the facility's file on the identified offender, including all incident reports, all information regarding medication and medication compliance, and all information regarding previous discharges or transfers from other facilities, the licensed forensic psychologist shall prepare an Identified Offender Report and Recommendation. The Identified Offender Report and

Recommendation shall detail whether and to what extent the identified offender's criminal history necessitates the implementation of security measures within the long-term care facility. If the identified offender is a convicted or registered sex offender or if the Identified Offender Report and Recommendation reveals that the identified offender poses a significant risk of harm to others within the facility, the offender shall be required to have his or her own room within the facility.

(e) The licensed forensic psychologist shall complete the Identified Offender Report and Recommendation within 14 business days after receiving the Criminal History Report and shall promptly provide the Identified Offender Report and Recommendation to the Department of State Police, which shall provide the Identified Offender Report and Recommendation to the following:

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

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

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

(4) The Department of Public Health.

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

Assembly.

(f) The facility shall incorporate the Identified Offender Report and Recommendation into the identified offender's care plan created pursuant to 42 CFR 483.20.

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

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

Section 2-202. Contract required.

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

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

(2) the person's guardian, if any, or agent, if any, as

defined in Section 2-3 of the Illinois Power of Attorney Act; or

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

An adult person shall be presumed to have the capacity to contract for admission to a long term care facility unless he or she has been adjudicated a "disabled person" within the meaning of Section 11a-2 of the Probate Act of 1975, or unless a petition for such an adjudication is pending in a circuit court of Illinois.

If there is no guardian, agent or member of the person's immediate family available, able or willing to execute the contract required by this Section and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has already been found to be a "disabled person", but no order has been entered allowing residential placement of the person, that person may be admitted to a facility before the execution of a contract required by this Section; provided that a petition for guardianship or for modification of guardianship is filed within 15 days of the person's admission to a facility, and provided further that such a contract is executed within 10 days of the disposition of the petition.

No adult shall be admitted to a facility if he or she objects, orally or in writing, to such admission, except as otherwise provided in Chapters III and IV of the Mental Health and Developmental Disabilities Code or Section 11a-14.1 of the

Probate Act of 1975.

Before a licensee enters a contract under this Section, it shall provide the prospective resident and his or her guardian, if any, with written notice of the licensee's policy regarding discharge of a resident whose private funds for payment of care are exhausted.

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

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

(d) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support.

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

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

(g) The contract shall specify:

- (1) the term of the contract;
- (2) the services to be provided under the contract and the charges for the services;
- (3) the services that may be provided to supplement the contract and the charges for the services;
- (4) the sources liable for payments due under the contract;
- (5) the amount of deposit paid; and
- (6) the rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 2-211.

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

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

obligations under it with 30 days' notice. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of his life nor to continuing care contracts through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of his or her life.

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

(1) whether the facility accepts Medicaid clients;

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

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

(4) that all deposits made to a facility by a resident, or on behalf of a resident, shall be returned by the facility within 30 days of the establishment of Medicaid eligibility, unless such deposits must be drawn upon or encumbered in accordance with Medicaid eligibility

requirements established by the Department of Healthcare and Family Services.

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

Section 2-203. Residents' advisory council. Each facility shall establish a residents' advisory council. The administrator shall designate a member of the facility staff to coordinate the establishment of, and render assistance to, the council.

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

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

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

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

facility responsibilities.

(e) The council shall be a forum for:

(1) Obtaining and disseminating information;

(2) Soliciting and adopting recommendations for facility programming and improvements;

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

(f) The council may present complaints as provided in Section 3-702 on behalf of a resident to the Department or to any other person it considers appropriate.

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

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

(2) Records of license and certification inspections, surveys, and evaluations of facilities, other reports of inspections, surveys, and evaluations of resident care, whether a facility has been designated a distressed facility and the basis for the designation, and reports

concerning a facility prepared pursuant to Titles XVIII and XIX of the Social Security Act, subject to the provisions of the Social Security Act;

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

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

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

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

Section 2-206. Confidentiality of records.

(a) The Department shall respect the confidentiality of a

resident's record and shall not divulge or disclose the contents of a record in a manner which identifies a resident, except upon a resident's death to a relative or guardian, or under judicial proceedings. This Section shall not be construed to limit the right of a resident to inspect or copy the resident's records.

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

Section 2-207. Directories for public health regions; information concerning facility costs and policies.

(a) Each year the Department shall publish a Directory for each public health region listing facilities to be made available to the public and be available at all Department offices. The Department may charge a fee for the Directory. The Directory shall contain, at a minimum, the following information:

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

(b) Detailed information concerning basic costs for care

and operating policies shall be available to the public upon request at each facility. However, a facility may refuse to make available any proprietary operating policies to the extent such facility reasonably believes such policies may be revealed to a competitor.

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

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

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

Section 2-211. Explanation of rights. Each resident and

resident's guardian or other person acting for the resident shall be given a written explanation, prepared by the Office of the State Long Term Care Ombudsman, of all the rights enumerated in Part 1 of this Article and in Part 4 of Article III. For residents of facilities participating in Title XVIII or XIX of the Social Security Act, the explanation shall include an explanation of residents' rights enumerated in that Act. The explanation shall be given at the time of admission to a facility or as soon thereafter as the condition of the resident permits, but in no event later than 48 hours after admission, and again at least annually thereafter. At the time of the implementation of this Act each resident shall be given a written summary of all the rights enumerated in Part 1 of this Article.

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

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

Section 2-213. Vaccinations.

(a) A facility shall annually administer or arrange for administration of a vaccination against influenza to each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention that are most recent to the time of vaccination, unless the vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccinations for all residents age 65 and over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Residents admitted after November 30, during the flu season, and until February 1 shall, as medically appropriate, receive an influenza vaccination prior to or upon admission or as soon as practicable if vaccine supplies are not available at the time of the admission, unless the vaccine is medically contraindicated or the resident has refused the vaccine. In the event that the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention determines that dates of administration other than those stated in this Act are optimal to protect the health of residents, the Department is authorized to develop rules to mandate vaccinations at those times rather than the times stated in this Act. A facility shall document in the resident's medical record that an annual vaccination against influenza was administered, arranged, refused or medically contraindicated.

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

(c) All persons seeking admission to a nursing facility shall be verbally screened for risk factors associated with hepatitis B, hepatitis C, and the Human Immunodeficiency Virus (HIV) according to guidelines established by the U.S. Centers for Disease Control and Prevention. Persons who are identified as being at high risk for hepatitis B, hepatitis C, or HIV shall be offered an opportunity to undergo laboratory testing in order to determine infection status if they will be admitted to the nursing facility for at least 7 days and are not known to be infected with any of the listed viruses. All HIV testing shall be conducted in compliance with the AIDS Confidentiality Act. All persons determined to be susceptible to the hepatitis B virus shall be offered immunization within 10 days of admission to any nursing facility. A facility shall document in the resident's medical record that he or she was verbally

screened for risk factors associated with hepatitis B, hepatitis C, and HIV, and whether or not the resident was immunized against hepatitis B. Nothing in this subsection (c) shall apply to a nursing facility licensed or regulated by the Illinois Department of Veterans' Affairs.

Section 2-214. Consumer Choice Information Reports.

(a) Every facility shall complete a Consumer Choice Information Report and shall file it with the Office of State Long Term Care Ombudsman electronically as prescribed by the Office. The Report shall be filed annually and upon request of the Office of State Long Term Care Ombudsman. The Consumer Choice Information Report must be completed by the facility in full.

(b) A violation of any of the provisions of this Section constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. All remedies, penalties, and authority granted to the Attorney General by the Consumer Fraud and Deceptive Business Practices Act shall be available to him or her for the enforcement of this Section.

(c) The Department of Public Health shall include verification of the submission of a facility's current Consumer Choice Information Report when conducting an inspection pursuant to Section 3-212.

Section 2-216. Notification of identified offenders. Every

licensed facility shall provide to every prospective and current resident and resident's guardian, and to every facility employee, a written notice, prescribed by the Illinois Department of Public Health, advising the resident, guardian, or employee of his or her right to ask whether any residents of the facility are identified offenders. The notice shall also be prominently posted within every licensed facility. The notice shall include a statement that information regarding registered sex offenders may be obtained from the Illinois State Police website and that information regarding persons serving terms of parole or mandatory supervised release may be obtained from the Illinois Department of Corrections website.

Section 2-217. Order for transportation of resident by ambulance. If a facility orders transportation of a resident of the facility by ambulance, the facility must maintain a written record that shows (i) the name of the person who placed the order for that transportation and (ii) the medical reason for that transportation. The facility must maintain the record for a period of at least 6 years after the date of the order for transportation by ambulance.

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

PART 1. LICENSING

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

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

(2) Assuring the accountability for reimbursed care provided in certified facilities participating in a federal or State health program.

Section 3-102. Necessity of license. No person may establish, operate, maintain, offer or advertise a facility within this State unless and until he or she obtains a valid license therefor as hereinafter provided, which license remains unsuspended, unrevoked, and unexpired. No public official or employee may place any person in, or recommend that any person be placed in, or directly or indirectly cause any person to be placed in any facility which is being operated without a valid license. All licenses and licensing procedures established under the Nursing Home Care Act shall be deemed valid under this Act until the Department establishes licenses and licensing procedures and initiates the licenses and licensing procedures under this Act.

Section 3-102.1. Denial of Department access to facility. If the Department is denied access to a facility or any other

place which it reasonably believes is required to be licensed as a facility under this Act, it shall request intervention of local, county or State law enforcement agencies to seek an appropriate court order or warrant to examine or interview the residents of such facility. Any person or entity preventing the Department from carrying out its duties under this Section shall be guilty of a violation of this Act and shall be subject to such penalties related thereto.

Section 3-103. Application for license; financial statement. The procedure for obtaining a valid license shall be as follows:

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

(2) All license applications shall be accompanied with an application fee. The fee for an annual license shall be \$1,990. The fee for a 2-year license shall be double the fee for the annual license. The fees collected shall be deposited with the State Treasurer into the Long Term Care Monitor/Receiver Fund. The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:

(a) The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case

of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;

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

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

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

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

(3) Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act.

After the application is approved, the applicant shall advise the Department every 6 months of any changes in the information originally provided in the application.

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

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

Section 3-105. Reports by municipality. Any city, village, or incorporated town which has or may have ordinances requiring

the licensing and regulation of facilities with at least the minimum standards established by the Department under this Act, shall make such periodic reports to the Department as the Department deems necessary. This report shall include a list of those facilities licensed by such municipality, the number of beds of each facility, and the date the license of each facility is effective.

Section 3-106. Issuance of license to holder of municipal license.

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

(b) In the event that the standards and requirements under the ordinance or resolution of the municipality are greater than those prescribed under this Act, the license issued by the Department shall remain in effect pending reasonable opportunity provided by the municipality, which shall be not

less than 60 days, for the licensee to comply with the local requirements. Upon notice by the municipality, or upon the Department's own determination that the licensee has failed to qualify for a local license, the Department shall revoke such license.

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

Section 3-107.1. Access by law enforcement officials and agencies. Notwithstanding any other provision of this Act, the Attorney General, the State's Attorneys, and various law enforcement agencies of this State and its political subdivisions shall have full and open access to any facility pursuant to Article 108 of the Code of Criminal Procedure of 1963 in the exercise of their investigatory and prosecutorial powers in the enforcement of the criminal laws of this State.

Furthermore, the Attorney General, the State's Attorneys and law enforcement agencies of this State shall inform the Department of any violations of this Act of which they have knowledge. Disclosure of matters before a grand jury shall be made in accordance with Section 112-6 of the Code of Criminal Procedure of 1963.

Section 3-108. Cooperation with State agencies. The Department shall coordinate the functions within State government affecting facilities licensed under this Act and shall cooperate with other State agencies which establish standards or requirements for facilities to assure necessary, equitable, and consistent State supervision of licensees without unnecessary duplication of survey, evaluation, and consultation services or complaint investigations. The Department shall cooperate with the Department of Human Services in regard to facilities containing more than 20% of residents for whom the Department of Human Services has mandated follow up responsibilities under the Mental Health and Developmental Disabilities Administrative Act. The Department shall cooperate with the Department of Healthcare and Family Services in regard to facilities where recipients of public aid are residents. The Department shall immediately refer to the Department of Financial and Professional Regulation (as successor to the Department of Professional Regulation) for investigation any credible evidence of which it has knowledge

that an individual licensed by that Department has violated this Act or any rule issued under this Act. The Department shall enter into agreements with other State Departments, agencies or commissions to effectuate the purpose of this Section.

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

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

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

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

Section 3-110. Contents and period of license.

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

The Department shall require the licensee to comply with the requirements of a court order issued under Section 3-515, as a condition of licensing.

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

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

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

(3) has not had an inspection, survey, or evaluation

that resulted in the issuance of 10 or more administrative warnings in the last 24 months;

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

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

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

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

Section 3-111. Issuance or renewal of license after notice of violation. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the Department of its power to rely on the violation as the basis for subsequent license revocation or other enforcement

action under this Act arising out of the notice of violation.

Section 3-112. Transfer of ownership; license.

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

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

Section 3-113. Transferee; conditional license. The license granted to the transferee shall be subject to the plan of correction submitted by the previous owner and approved by the Department and any conditions contained in a conditional license issued to the previous owner. If there are outstanding violations and no approved plan of correction has been implemented, the Department may issue a conditional license and plan of correction as provided in Sections 3-311 through 3-317. The license granted to a transferee for a facility that is in receivership shall be subject to any contractual obligations assumed by a grantee under the Equity in Long-term Care Quality Act and to the plan submitted by the receiver for continuing

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

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

Section 3-115. License renewal application. At least 120 days but not more than 150 days prior to license expiration, the licensee shall submit an application for renewal of the license in such form and containing such information as the Department requires. If the application is approved, the license shall be renewed in accordance with Section 3-110 at the request of the licensee. If application for renewal is not timely filed, the Department shall so inform the licensee.

Section 3-116. Probationary license. If the applicant has not been previously licensed or if the facility is not in operation at the time application is made, the Department shall issue only a probationary license. A probationary license shall be valid for 120 days unless sooner suspended or revoked under Section 3-119. Within 30 days prior to the termination of a probationary license, the Department shall fully and

completely inspect the facility and, if the facility meets the applicable requirements for licensure, shall issue a license under Section 3-109. If the Department finds that the facility does not meet the requirements for licensure but has made substantial progress toward meeting those requirements, the license may be renewed once for a period not to exceed 120 days from the expiration date of the initial probationary license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

following:

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

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

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

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

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

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

(6) The facility has committed 2 Type "AA" violations

within a 2-year period.

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

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

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

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

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

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

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

PART 2. GENERAL PROVISIONS

Section 3-201. Medical treatment; no prescription by Department. The Department shall not prescribe the course of medical treatment provided to an individual resident by the resident's physician in a facility.

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

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

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

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

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

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

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

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

(8) Adequate accommodations, staff and services for the number and types of residents for whom the facility is licensed to care, including standards for temperature and relative humidity within comfort zones determined by the Department based upon a combination of air temperature,

relative humidity and air movement. Such standards shall also require facility plans that provide for health and comfort of residents at medical risk as determined by the attending physician whenever the temperature and relative humidity are outside such comfort zones established by the Department. The standards must include a requirement that areas of a facility used by residents of the facility be air-conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms;

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

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

Section 3-202.05. Staffing ratios. The Department shall establish rules governing the minimum staffing level and staffing qualifications for facilities. In crafting the staffing ratios, the Department shall take into account the ambulatory nature and mental health of the resident population

in the facilities. The rules shall be substantially similar to the staffing ratios contained in Section 3-202.05 of the Nursing Home Care Act.

Section 3-202.1. Weather or hazard alert system. The Department shall develop and implement a system of alerting and educating facilities and their personnel as to the existence or possibility of weather or other hazardous circumstances which may endanger resident health or safety and designating any precautions to prevent or minimize such danger. The Department may assist any facility experiencing difficulty in dealing with such emergencies. The Department may provide for announcement to the public of the dangers posed to facility residents by such existing or potential weather or hazardous circumstances.

Section 3-202.2a. Comprehensive resident care plan. A facility, with the participation of the resident and the resident's guardian or representative, as applicable, must develop and implement a comprehensive care plan for each resident that includes measurable objectives and timetables to meet the resident's medical, mental and psychosocial needs that are identified in the resident's comprehensive assessment, that allow the resident to attain or maintain the highest practicable level of independent functioning, and that provide for discharge planning to the least restrictive setting based on the resident's care needs. The assessment shall be developed

with the active participation of the resident and the resident's guardian or representative, as applicable.

Section 3-202.2b. Certification of specialized mental health rehabilitation facilities.

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

(b) No facility shall establish, operate, maintain, or offer psychiatric rehabilitation services, or admit, retain, or seek referrals of a resident with a serious mental illness diagnosis, unless and until a valid certification, which remains unsuspending, unrevoked, and unexpired, has been issued.

(c) A facility that currently serves a resident with serious mental illness may continue to admit such residents until the Department performs a certification review and determines that the facility does not meet the requirements for

certification. The Department, at its discretion, may provide an additional 90-day period for the facility to meet the requirements for certification if it finds that the facility has made a good faith effort to comply with all certification requirements and will achieve total compliance with the requirements before the end of the 90-day period. The facility shall be prohibited from admitting residents with serious mental illness until the Department certifies the facility to be in compliance with the requirements of this Section.

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

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

of Article III of this Act.

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

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

(h) The Department shall establish requirements for certification that augment current quality of care standards for facilities serving residents with serious mental illness, which shall include admission, discharge planning, psychiatric rehabilitation services, development of age group appropriate treatment plan goals and services, behavior management services, coordination with community mental health services, staff qualifications and training, clinical consultation, resident access to the outside community, and appropriate

environment and space for resident programs, recreation, privacy, and any other issue deemed appropriate by the Department. The augmented standards shall at a minimum include, but need not be limited to, the following:

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

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

(3) Training for all new employees specific to the care needs of residents with a serious mental illness diagnosis during their orientation period and annually thereafter. Training shall be independent of the Department and overseen by an agency designated by the Governor to determine the content of all facility employee training and to provide training for all trainers of facility employees. Training of employees shall at minimum include, but need not be limited to, (i) the impact of a serious mental illness diagnosis, (ii) the recovery paradigm and the role of psychiatric rehabilitation, (iii) preventive strategies

for managing aggression and crisis prevention, (iv) basic psychiatric rehabilitation techniques and service delivery, (v) resident rights, (vi) abuse prevention, (vii) appropriate interaction between staff and residents, and (viii) any other topic deemed by the Department to be important to ensuring quality of care.

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

(5) Room selection and appropriateness of roommate assignment.

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

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

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

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

Section 3-202.5. Facility plan review; fees.

(a) Before commencing construction of a new facility or specified types of alteration or additions to an existing long term care facility involving major construction, as defined by rule by the Department, with an estimated cost greater than \$100,000, architectural drawings and specifications for the facility shall be submitted to the Department for review and approval. A facility may submit architectural drawings and specifications for other construction projects for Department review according to subsection (b) that shall not be subject to fees under subsection (d). Review of drawings and specifications shall be conducted by an employee of the Department meeting the qualifications established by the Department of Central Management Services class specifications

for such an individual's position or by a person contracting with the Department who meets those class specifications. Final approval of the drawings and specifications for compliance with design and construction standards shall be obtained from the Department before the alteration, addition, or new construction is begun.

(b) The Department shall inform an applicant in writing within 10 working days after receiving drawings and specifications and the required fee, if any, from the applicant whether the applicant's submission is complete or incomplete. Failure to provide the applicant with this notice within 10 working days shall result in the submission being deemed complete for purposes of initiating the 60-day review period under this Section. If the submission is incomplete, the Department shall inform the applicant of the deficiencies with the submission in writing. If the submission is complete the required fee, if any, has been paid, the Department shall approve or disapprove drawings and specifications submitted to the Department no later than 60 days following receipt by the Department. The drawings and specifications shall be of sufficient detail, as provided by Department rule, to enable the Department to render a determination of compliance with design and construction standards under this Act. If the Department finds that the drawings are not of sufficient detail for it to render a determination of compliance, the plans shall be determined to be incomplete and shall not be considered for

purposes of initiating the 60-day review period. If a submission of drawings and specifications is incomplete, the applicant may submit additional information. The 60-day review period shall not commence until the Department determines that a submission of drawings and specifications is complete or the submission is deemed complete. If the Department has not approved or disapproved the drawings and specifications within 60 days, the construction, major alteration, or addition shall be deemed approved. If the drawings and specifications are disapproved, the Department shall state in writing, with specificity, the reasons for the disapproval. The entity submitting the drawings and specifications may submit additional information in response to the written comments from the Department or request a reconsideration of the disapproval. A final decision of approval or disapproval shall be made within 45 days of the receipt of the additional information or reconsideration request. If denied, the Department shall state the specific reasons for the denial.

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

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

(2) the construction, major alteration, or addition

was built as submitted;

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

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

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

(1) (Blank).

(2) (Blank).

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

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

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

(6) If the estimated dollar value of the alteration, addition, or new construction is \$5,000,000 or more, the fee shall be the greater of \$11,000 or 0.11% of that value,

but shall not exceed \$40,000. The fees provided in this subsection (d) shall not apply to major construction projects involving facility changes that are required by Department rule amendments. The fees provided in this subsection (d) shall also not apply to major construction projects if 51% or more of the estimated cost of the project is attributed to capital equipment. For major construction projects where 51% or more of the estimated cost of the project is attributed to capital equipment, the Department shall by rule establish a fee that is reasonably related to the cost of reviewing the project. The Department shall not commence the facility plan review process under this Section until the applicable fee has been paid.

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

to this Section.

(f) (Blank).

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

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

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

(j) Nothing in this Section shall be construed to apply to maintenance, upkeep, or renovation that does not affect the structural integrity of the building, does not add beds or services over the number for which the long term care facility

is licensed, and provides a reasonable degree of safety for the residents.

Section 3-203. Standards for persons with mental illness. In licensing any facility for persons with a mental illness, the Department shall consult with the Department of Human Services in developing minimum standards for such persons.

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

Section 3-205. Municipalities; license classifications. Where licensing responsibilities are performed by a city, village or incorporated town, the municipality shall use the same classifications as the Department; and a facility may not be licensed for a different classification by the Department

than by the municipality.

Section 3-206. Nursing assistants, habilitation aids, and child care aides. The Department shall prescribe a curriculum for training nursing assistants, habilitation aides, and child care aides.

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

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

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

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

(4) Have completed at least 8 years of grade school or

provide proof of equivalent knowledge.

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

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

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

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

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

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

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

under Section 3-206.01 must authorize the Department of Public Health or its designee to request a criminal history record check in accordance with the Health Care Worker Background Check Act and submit all necessary information. An individual may not newly be included on the registry unless a criminal history record check has been conducted with respect to the individual.

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

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

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

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

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

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

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

who have performed no nursing or nursing-related services for a period of 24 consecutive months shall be listed as "inactive" and, as such, do not meet the requirements of this Section. Licensed sheltered care facilities shall be exempt from the requirements of this Section.

Section 3-206.01. Health care worker registry.

(a) The Department shall include in the registry established under Section 3-206.01 of the Nursing Home Care Act all individuals who (i) have satisfactorily completed the training required by Section 3-206 of this Act, (ii) have begun a current course of training as set forth in Section 3-206 of this Act, or (iii) are otherwise acting as a nursing assistant, habilitation aide, home health aide, psychiatric services rehabilitation aide, or child care aide. The registry shall include the individual's name, his or her current address, Social Security number, and the date and location of the training course completed by the individual and whether the individual has any of the disqualifying convictions listed in Section 25 of the Health Care Worker Background Check Act from the date of the individual's last criminal records check. Any individual placed on the registry is required to inform the Department of any change of address within 30 days. A facility shall not employ an individual as a nursing assistant, habilitation aide, home health aide, psychiatric services rehabilitation aide, or child care aide, or newly hired as an

individual who may have access to a resident, a resident's living quarters, or a resident's personal, financial, or medical records, unless the facility has inquired of the Department's health care worker registry as to information in the registry concerning the individual. The facility shall not employ an individual as a nursing assistant, habilitation aide, or child care aide if that individual is not on the registry unless the individual is enrolled in a training program under paragraph (5) of subsection (a) of Section 3-206 of this Act.

If the Department finds that a nursing assistant, habilitation aide, home health aide, psychiatric services rehabilitation aide, or child care aide, or an unlicensed individual, has abused or neglected a resident or an individual under his or her care or misappropriated property of a resident or an individual under his or her care, the Department shall notify the individual of this finding by certified mail sent to the address contained in the registry. The notice shall give the individual an opportunity to contest the finding in a hearing before the Department or to submit a written response to the findings in lieu of requesting a hearing. If, after a hearing or if the individual does not request a hearing, the Department finds that the individual abused a resident, neglected a resident, or misappropriated resident property in a facility, the finding shall be included as part of the registry as well as a clear and accurate summary from the individual, if he or she chooses to make such a statement. The Department

shall make the following information in the registry available to the public: an individual's full name; the date an individual successfully completed a nurse aide training or competency evaluation; and whether the Department has made a finding that an individual has been guilty of abuse or neglect of a resident or misappropriation of resident property. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of the individual's statement in the registry relating to the finding or a clear and accurate summary of the statement.

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

Section 3-206.02. Designation on registry for offense.

(a) The Department, after notice to the nursing assistant, habilitation aide, home health aide, psychiatric services rehabilitation aide, or child care aide, may designate that the Department has found any of the following:

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

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

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

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

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

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

(c-1) The Department shall document criminal background

check results pursuant to the requirements of the Health Care Worker Background Check Act.

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

Section 3-206.03. Resident attendants.

(a) As used in this Section, "resident attendant" means an individual who assists residents in a facility with the following activities:

(1) eating and drinking; and

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

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

(1) is a licensed health professional or a registered

dietitian;

(2) volunteers without monetary compensation;

(3) is a nurse assistant; or

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

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

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

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

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

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

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

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

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

approved by the Department every 2 years.

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

Section 3-206.05. Safe resident handling policy.

(a) In this Section:

"Health care worker" means an individual providing direct resident care services who may be required to lift, transfer, reposition, or move a resident.

"Nurse" means an advanced practice nurse, a registered nurse, or a licensed practical nurse licensed under the Nurse Practice Act.

(b) A facility must adopt and ensure implementation of a policy to identify, assess, and develop strategies to control risk of injury to residents and nurses and other health care workers associated with the lifting, transferring, repositioning, or movement of a resident. The policy shall establish a process that, at a minimum, includes all of the following:

(1) Analysis of the risk of injury to residents and nurses and other health care workers taking into account the resident handling needs of the resident populations served by the facility and the physical environment in which the resident handling and movement occurs.

(2) Education of nurses in the identification, assessment, and control of risks of injury to residents and

nurses and other health care workers during resident handling.

(3) Evaluation of alternative ways to reduce risks associated with resident handling, including evaluation of equipment and the environment.

(4) Restriction, to the extent feasible with existing equipment and aids, of manual resident handling or movement of all or most of a resident's weight except for emergency, life-threatening, or otherwise exceptional circumstances.

(5) Procedures for a nurse to refuse to perform or be involved in resident handling or movement that the nurse in good faith believes will expose a resident or nurse or other health care worker to an unacceptable risk of injury.

(6) Development of strategies to control risk of injury to residents and nurses and other health care workers associated with the lifting, transferring, repositioning, or movement of a resident.

(7) In developing architectural plans for construction or remodeling of a facility or unit of a facility in which resident handling and movement occurs, consideration of the feasibility of incorporating resident handling equipment or the physical space and construction design needed to incorporate that equipment.

Section 3-206.1. Transfer of ownership following suspension or revocation; discussion with new owner. Whenever

ownership of a private facility is transferred to another private owner following a final order for a suspension or revocation of the facility's license, the Department shall discuss with the new owner all noted problems associated with the facility and shall determine what additional training, if any, is needed for the direct care staff.

Section 3-207. Statement of ownership.

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

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

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

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

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

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

Section 3-208. Annual financial statement.

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

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

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

(d) The Director of Public Health and the Director of

Healthcare and Family Services shall seek the advice and comments of other State and federal agencies which require the submission of financial data from facilities licensed under this Act and shall incorporate the information requirements of these agencies so as to impose the least possible burden on licensees. No other State agency may require submission of financial data except as expressly authorized by law or as necessary to meet requirements of federal statutes or regulations. Information obtained under this Section shall be made available, upon request, by the Department to any other State agency or legislative commission to which such information is necessary for investigations or required for the purposes of State or federal law or regulation.

Section 3-209. Posting of information. Every facility shall conspicuously post for display in an area of its offices accessible to residents, employees, and visitors the following:

- (1) Its current license;
- (2) A description, provided by the Department, of complaint procedures established under this Act and the name, address, and telephone number of a person authorized by the Department to receive complaints;
- (3) A copy of any order pertaining to the facility issued by the Department or a court; and
- (4) A list of the material available for public

inspection under Section 3-210.

Section 3-210. Materials for public inspection.

A facility shall retain the following for public inspection:

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

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

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

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

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

(6) A complete copy of the most recent inspection report of the facility received from the Department; and

(7) A copy of the current Consumer Choice Information Report required by Section 2-214.

Section 3-211. No State or federal funds to unlicensed

facility. No State or federal funds which are appropriated by the General Assembly or which pass through the General Revenue Fund or any special fund in the State Treasury shall be paid to a facility not having a license issued under this Act.

Section 3-212. Inspection of facility by Department; report.

(a) The Department, whenever it deems necessary in accordance with subsection (b), shall inspect, survey and evaluate every facility to determine compliance with applicable licensure requirements and standards. Submission of a facility's current Consumer Choice Information Report required by Section 2-214 shall be verified at the time of inspection. An inspection should occur within 120 days prior to license renewal. The Department may periodically visit a facility for the purpose of consultation. An inspection, survey, or evaluation, other than an inspection of financial records, shall be conducted without prior notice to the facility. A visit for the sole purpose of consultation may be announced. The Department shall provide training to surveyors about the appropriate assessment, care planning, and care of persons with mental illness (other than Alzheimer's disease or related disorders) to enable its surveyors to determine whether a facility is complying with State and federal requirements about the assessment, care planning, and care of those persons.

(a-1) An employee of a State or unit of local government

agency charged with inspecting, surveying, and evaluating facilities who directly or indirectly gives prior notice of an inspection, survey, or evaluation, other than an inspection of financial records, to a facility or to an employee of a facility is guilty of a Class A misdemeanor. An inspector or an employee of the Department who intentionally prenotifies a facility, orally or in writing, of a pending complaint investigation or inspection shall be guilty of a Class A misdemeanor. Superiors of persons who have prenotified a facility shall be subject to the same penalties, if they have knowingly allowed the prenotification. A person found guilty of prenotifying a facility shall be subject to disciplinary action by his or her employer. If the Department has a good faith belief, based upon information that comes to its attention, that a violation of this subsection has occurred, it must file a complaint with the Attorney General or the State's Attorney in the county where the violation took place within 30 days after discovery of the information.

(a-2) An employee of a State or unit of local government agency charged with inspecting, surveying, or evaluating facilities who willfully profits from violating the confidentiality of the inspection, survey, or evaluation process shall be guilty of a Class 4 felony and that conduct shall be deemed unprofessional conduct that may subject a person to loss of his or her professional license. An action to prosecute a person for violating this subsection (a-2) may be

brought by either the Attorney General or the State's Attorney in the county where the violation took place.

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

(b-1) The Department shall not be required to determine whether a facility certified to participate in the Medicare program under Title XVIII of the Social Security Act, or the Medicaid program under Title XIX of the Social Security Act, and which the Department determines by inspection under this Section or under Section 3-702 of this Act to be in compliance with the certification requirements of Title XVIII or XIX, is in compliance with any requirement of this Act that is less stringent than or duplicates a federal certification requirement. In accordance with subsection (a) of this Section or subsection (d) of Section 3-702, the Department shall determine whether a certified facility is in compliance with requirements of this Act that exceed federal certification requirements. If a certified facility is found to be out of

compliance with federal certification requirements, the results of an inspection conducted pursuant to Title XVIII or XIX of the Social Security Act may be used as the basis for enforcement remedies authorized and commenced, with the Department's discretion to evaluate whether penalties are warranted, under this Act. Enforcement of this Act against a certified facility shall be commenced pursuant to the requirements of this Act, unless enforcement remedies sought pursuant to Title XVIII or XIX of the Social Security Act exceed those authorized by this Act. As used in this subsection, "enforcement remedy" means a sanction for violating a federal certification requirement or this Act.

(c) Upon completion of each inspection, survey and evaluation, the appropriate Department personnel who conducted the inspection, survey or evaluation shall submit a copy of their report to the licensee upon exiting the facility, and shall submit the actual report to the appropriate regional office of the Department. Such report and any recommendations for action by the Department under this Act shall be transmitted to the appropriate offices of the associate director of the Department, together with related comments or documentation provided by the licensee which may refute findings in the report, which explain extenuating circumstances that the facility could not reasonably have prevented, or which indicate methods and timetables for correction of deficiencies described in the report. Without

affecting the application of subsection (a) of Section 3-303, any documentation or comments of the licensee shall be provided within 10 days of receipt of the copy of the report. Such report shall recommend to the Director appropriate action under this Act with respect to findings against a facility. The Director shall then determine whether the report's findings constitute a violation or violations of which the facility must be given notice. Such determination shall be based upon the severity of the finding, the danger posed to resident health and safety, the comments and documentation provided by the facility, the diligence and efforts to correct deficiencies, correction of the reported deficiencies, the frequency and duration of similar findings in previous reports and the facility's general inspection history. Violations shall be determined under this subsection no later than 90 days after completion of each inspection, survey and evaluation.

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

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

Section 3-213. Periodic reports to Department. The Department shall require periodic reports and shall have access to and may reproduce or photocopy at its cost any books,

records, and other documents maintained by the facility to the extent necessary to carry out this Act and the rules promulgated under this Act. The Department shall not divulge or disclose the contents of a record under this Section in violation of Section 2-206 or as otherwise prohibited by this Act.

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

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

Department may charge a reasonable fee to cover copying costs.

PART 3. VIOLATIONS AND PENALTIES

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

Section 3-302. Each day a separate violation. Each day the violation exists after the date upon which a notice of violation is served under Section 3-301 shall constitute a

separate violation for purposes of assessing penalties or fines under Section 3-305. The submission of a plan of correction pursuant to subsection (b) of Section 3-303 does not prohibit or preclude the Department from assessing penalties or fines pursuant to Section 3-305 for those violations found to be valid except as provided under Section 3-308 in relation to Type "B" violations. No penalty or fine may be assessed for a condition for which the facility has received a variance or waiver of a standard.

Section 3-303. Correction of violations; hearing.

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

(b) At the time of issuance of a notice of a Type "B" violation, the Department shall request a plan of correction which is subject to the Department's approval. The facility shall have 10 days after receipt of notice of violation in which to prepare and submit a plan of correction. The Department may extend this period up to 30 days where correction involves substantial capital improvement. The plan shall include a fixed time period not in excess of 90 days within which violations are to be corrected. If the Department

rejects a plan of correction, it shall send notice of the rejection and the reason for the rejection to the facility. The facility shall have 10 days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the facility shall follow an approved plan of correction imposed by the Department.

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

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

(e) If a facility desires to contest any Department action under this Section, it shall send a written request for a hearing under Section 3-703 to the Department within 10 days of receipt of notice of the contested action. The Department shall commence the hearing as provided under Section 3-703. Whenever possible, all action of the Department under this Section arising out of a violation shall be contested and determined at a single hearing. Issues decided after a hearing may not be

reheard at subsequent hearings under this Section.

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

- (a) the condition of the physical plant has deteriorated or

its use substantially changed so that the basis upon which the waiver was issued is materially different; or

(b) the facility is renovated or substantially remodeled in such a way as to permit compliance with the applicable rules and standards without substantial increase in cost. A copy of each waiver application and each waiver granted or renewed shall be on file with the Department and available for public inspection. The Director shall annually review such file and recommend any modification in rules or standards suggested by the number and nature of waivers requested and granted and the difficulties faced in compliance by similarly situated facilities.

Section 3-303.2. Administrative warning.

(a) If the Department finds a situation, condition or practice which violates this Act or any rule promulgated thereunder that does not constitute a Type "AA", Type "A", Type "B", or Type "C" violation, the Department shall issue an administrative warning. Any administrative warning shall be served upon the facility in the same manner as the notice of violation under Section 3-301. The facility shall be responsible for correcting the situation, condition or practice; however, no written plan of correction need be submitted for an administrative warning, except for violations of Sections 3-401 through 3-413 or the rules promulgated thereunder. A written plan of correction is required to be

filed for an administrative warning issued for violations of Sections 3-401 through 3-413 or the rules promulgated thereunder.

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

Section 3-304. Quarterly list of facilities against which Department has taken action.

(a) The Department shall prepare on a quarterly basis a list containing the names and addresses of all facilities against which the Department during the previous quarter has:

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

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

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

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

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

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

(7) initiated an action to appoint a receiver;

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

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

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

Section 3-304.1. Public computer access to information.

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

- (1) who regulates facilities licensed under this Act;
 - (2) information in the possession of the Department that is listed in Sections 3-210 and 3-304;
 - (3) deficiencies and plans of correction;
 - (4) enforcement remedies;
 - (5) penalty letters;
 - (6) designation of penalty monies;
 - (7) the U.S. Department of Health and Human Services' special projects or federally required inspections;
 - (8) advisory standards;
 - (9) deficiency free surveys;
 - (10) enforcement actions and enforcement summaries;
- and
- (11) distressed facilities.

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

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

(d) The information shall be made available as provided in this Section in the shortest practicable time after it is

publicly available in any other form.

Section 3-304.2. Designation of distressed facilities.

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

(b) In deciding whether and how to modify the criteria used by the General Accounting Office, the Department shall complete a test run of any substitute criteria to determine their reliability by comparing the number of facilities identified as distressed against the number of distressed facilities generated using the criteria contained in the General Accounting Office report. The Department may not adopt substitute criteria that generate fewer facilities with a distressed designation than are produced by the General Accounting Office criteria during the test run.

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

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

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

(f) A facility that has been designated a distressed facility may contract with an independent consultant to develop and assist in the implementation of a plan of improvement to bring and keep the facility in compliance with this Act and, if applicable, with federal certification requirements. A facility that contracts with an independent consultant shall have 90 days to develop a plan of improvement and demonstrate a good faith effort at implementation, and another 90 days to achieve compliance and take whatever additional actions are called for in the improvement plan to maintain compliance. A facility that the Department determines has a plan of improvement likely to bring and keep the facility in compliance and that has demonstrated good faith efforts at implementation within the first 90 days may be eligible to receive a grant under the Equity in Long-term Care Quality Act to assist it in achieving and maintaining compliance. In this subsection, "independent" consultant means an individual who has no professional or financial relationship with the facility, any person with a reportable ownership interest in the facility, or any related parties. In this subsection, "related parties" has

the meaning attributed to it in the instructions for completing Medicaid cost reports.

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

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

(i) The Department shall by rule establish sanctions (in addition to those authorized elsewhere in this Article) against distressed facilities that are not in compliance with this Act and (if applicable) with federal certification requirements. Criteria for imposing sanctions shall take into account a facility's actions to address the violations and deficiencies that caused its designation as a distressed facility, and its compliance with this Act and with federal certification requirements (if applicable), subsequent to its designation as a distressed facility, including mandatory revocations if criteria can be agreed upon by the Department, resident advocates, and representatives of the nursing home profession.

The Department shall report to the General Assembly on the results of negotiations about creating criteria for mandatory license revocations of distressed facilities and make recommendations about any statutory changes it believes are appropriate to protect the health, safety, and welfare of nursing home residents.

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

Section 3-305. Licensee subject to penalties; fines. The license of a facility that is in violation of this Act or any rule adopted under this Act may be subject to the penalties or fines levied by the Department as specified in this Section.

(1) A licensee who commits a Type "AA" violation as defined in Section 1-128.5 is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine up to \$25,000 per violation.

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

(2) A licensee who commits a Type "B" violation as defined in Section 1-130 shall be assessed a fine of up to \$1,100 per

violation.

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

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

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

(5) For the purpose of computing a penalty under subsections (2) through (4), the number of residents per day

shall be based on the average number of residents in the facility during the 30 days preceding the discovery of the violation.

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

(7) For purposes of assessing fines under this Section, a repeat violation shall be a violation which has been cited during one inspection of the facility for which an accepted plan of correction was not complied with or a new citation of the same rule if the licensee is not substantially addressing the issue routinely throughout the facility. Violations of the Nursing Home Care Act and the MR/DD Community Care Act shall be deemed violations of this Act.

(7.5) If an occurrence results in more than one type of violation as defined in this Act, the Nursing Home Care Act, or the MR/DD Community Care Act (that is, a Type "AA", Type "A", Type "B", or Type "C" violation), the maximum fine that may be assessed for that occurrence is the maximum fine that may be

assessed for the most serious type of violation charged. For purposes of the preceding sentence, a Type "AA" violation is the most serious type of violation that may be charged, followed by a Type "A", Type "B", or Type "C" violation, in that order.

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

(9) If the Department finds that a facility has violated a provision of the Illinois Administrative Code that has a high-risk designation, or that a facility has violated the same provision of the Illinois Administrative Code 3 or more times in the previous 12 months, the Department may assess a fine of up to 2 times the maximum fine otherwise allowed.

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

Section 3-306. Factors to be considered in determining penalty. In determining whether a penalty is to be imposed and

in determining the amount of the penalty to be imposed, if any, for a violation, the Director shall consider the following factors:

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

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

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

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

Section 3-307. Assessment of penalties; notice. The Director may directly assess penalties provided for under Section 3-305 of this Act. If the Director determines that a penalty should be assessed for a particular violation or for failure to correct it, the Director shall send a notice to the facility. The notice shall specify the amount of the penalty assessed, the violation, and the statute or rule alleged to have been violated, and shall inform the licensee of the right to hearing under Section 3-703 of this Act. The notice must contain a detailed computation showing how the amount of the

penalty was derived, including the number of days and the number of residents on which the penalty was based. If the violation is continuing, the notice shall specify the amount of additional assessment per day for the continuing violation.

Section 3-308. Time of assessment; plan of correction. In the case of a Type "A" violation, a penalty may be assessed from the date on which the violation is discovered. In the case of a Type "B" or Type "C" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder, the facility shall submit a plan of correction as provided in Section 3-303.

In the case of a Type "B" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder, a penalty shall be assessed on the date of notice of the violation, but the Director may reduce the amount or waive such payment for any of the following reasons:

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

(b) The facility submits a plan of correction within 10 days and subsequently submits a true report of correction within 15 days thereafter;

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

or

(d) The facility submits a plan of correction for violations involving substantial capital improvements which provides for correction within the initial 90-day limit provided under Section 3-303.

The Director or his or her designee may reallocate the amount of a penalty assessed pursuant to Section 3-305. A facility shall submit to the Director a written request for a penalty reduction, in a form prescribed by the Department, which includes an accounting of all costs for goods and services purchased in correcting the violation. The amount by which a penalty is reduced may not be greater than the amount of the costs reported by the facility. A facility that accepts a penalty reallocation under this Section waives its right to dispute a notice of violation and any remaining fine or penalty in an administrative hearing. The Director shall consider the following factors:

(1) The violation has not caused actual harm to a resident.

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

(3) The facility has no record of a pervasive pattern of the same or similar violations.

(4) The facility did not benefit financially from committing or continuing the violation.

At least annually, and upon request, the Department shall

provide a list of all reallocations and the reasons for those reallocations.

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

If a good faith plan of correction is not received within the time provided by Section 3-303, a penalty may be assessed from the date of the notice of the Type "B" or "C" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder served under Section 3-301 until the date of the receipt of a good faith plan of correction, or until the date the violation is corrected, whichever is earlier. If a violation is not corrected within the time specified by an approved plan of correction or any lawful extension thereof, a penalty may be assessed from the date of notice of the violation until the date the violation is corrected.

Section 3-309. Contesting assessment of penalty. A

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

Section 3-310. Collection of penalties. All penalties shall be paid to the Department within 10 days of receipt of notice of assessment or, if the penalty is contested under Section 3-309, within 10 days of receipt of the final decision, unless the decision is appealed and the order is stayed by court order under Section 3-713. A facility choosing to waive the right to a hearing under Section 3-309 shall submit a payment totaling 65% of the original fine amount along with the written waiver. A penalty assessed under this Act shall be collected by the Department and shall be deposited with the State Treasurer into the Long Term Care Monitor/Receiver Fund. If the person or facility against whom a penalty has been assessed does not comply with a written demand for payment within 30 days, the Director shall issue an order to do any of the following:

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

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

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

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

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

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

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

Section 3-315. Hearing on conditional license or plan of correction. If the applicant or licensee desires to contest the basis for issuance of a conditional license, or the terms of the plan of correction, the applicant or licensee shall send a written request for hearing to the Department within 10 days after receipt by the applicant or licensee of the Department's

notice and decision to issue a conditional license. The Department shall hold the hearing as provided under Section 3-703.

Section 3-316. Period of conditional license. A conditional license shall be issued for a period specified by the Department, but in no event for more than one year. The Department shall periodically inspect any facility operating under a conditional license. If the Department finds substantial failure by the facility to timely correct the violations which prevented full licensure and formed the basis for the Department's decision to issue a conditional license in accordance with the required plan of correction, the conditional license may be revoked as provided under Section 3-119.

Section 3-318. Business offenses.

(a) No person shall:

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

(2) Intentionally prevent, interfere with, or attempt to impede in any way any duly authorized investigation and

enforcement of this Act;

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

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

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

(6) Willfully file any false, incomplete or intentionally misleading information required to be filed under this Act, or willfully fail or refuse to file any required information; or

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

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

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

Section 3-320. Review under Administrative Review Law. All

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

PART 4. DISCHARGE AND TRANSFER

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

- (a) for medical reasons;
- (b) for the resident's physical safety;
- (c) for the physical safety of other residents, the facility staff or facility visitors; or
- (d) for either late payment or nonpayment for the resident's stay, except as prohibited by Titles XVIII and XIX of the federal Social Security Act. For purposes of this Section, "late payment" means nonreceipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, a facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail.

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

Section 3-401.1. Medical assistance recipients.

(a) A facility participating in the Medical Assistance Program is prohibited from failing or refusing to retain as a resident any person because he or she is a recipient of or an applicant for the Medical Assistance Program under Article V of the Illinois Public Aid Code.

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

- (1) the facility, no later than at the time of admission and at the time of the resident's contract

renewal, explains to the resident (unless he or she is incompetent), and to the resident's representative, and to the person making payment on behalf of the resident for the resident's stay, in writing, that the facility may discharge the resident if the resident is no longer able to pay for his or her care in the facility without Medical Assistance;

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

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

(b) A facility which violates this Section shall be guilty

of a business offense and fined not less than \$500 nor more than \$1,000 for the first offense and not less than \$1,000 nor more than \$5,000 for each subsequent offense.

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

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

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

(c) When an identified offender is within the provisional admission period defined in Section 1-120.3. If the Identified Offender Report and Recommendation prepared under Section 2-201.6 shows that the identified offender poses a serious threat or danger to the physical safety of other residents, the

facility staff, or facility visitors in the admitting facility and the facility determines that it is unable to provide a safe environment for the other residents, the facility staff, or facility visitors, the facility shall transfer or discharge the identified offender within 3 days after its receipt of the Identified Offender Report and Recommendation.

Section 3-403. Contents of notice; right to hearing. The notice required by Section 3-402 shall be on a form prescribed by the Department and shall contain all of the following:

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

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

(c) A statement in not less than 12 point type, which reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within 10 days after receiving this notice. If you request a hearing, it will be held not later than 10 days after your request, and you generally will not be transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility's

decision and to request a hearing is attached. If you have any questions, call the Department of Public Health at the telephone number listed below.";

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

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

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

Section 3-405. Copy of notice in resident's record; copy to Department. A copy of the notice required by Section 3-402 shall be placed in the resident's clinical record and a copy shall be transmitted to the Department, the resident, the resident's representative, and, if the resident's care is paid for in whole or part through Title XIX, the Department of Healthcare and Family Services.

Section 3-406. Medical assistance recipient; transfer or discharge as result of action by Department of Healthcare and

Family Services. When the basis for an involuntary transfer or discharge is the result of an action by the Department of Healthcare and Family Services with respect to a recipient of assistance under Title XIX of the Social Security Act and a hearing request is filed with the Department of Healthcare and Family Services, the 21-day written notice period shall not begin until a final decision in the matter is rendered by the Department of Healthcare and Family Services or a court of competent jurisdiction and notice of that final decision is received by the resident and the facility.

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

Section 3-408. Discussion of planned transfer or discharge. The planned involuntary transfer or discharge shall be discussed with the resident, the resident's representative and person or agency responsible for the resident's placement, maintenance, and care in the facility. The explanation and discussion of the reasons for involuntary transfer or discharge shall include the facility administrator or other appropriate facility representative as the administrator's designee. The content of the discussion and explanation shall be summarized

in writing and shall include the names of the individuals involved in the discussions and made a part of the resident's clinical record.

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

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

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

Section 3-412. Conduct of hearing. The hearing before the Department provided under Section 3-411 shall be conducted as

prescribed under Section 3-703. In determining whether a transfer or discharge is authorized, the burden of proof in this hearing rests on the person requesting the transfer or discharge.

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

Section 3-414. Continuation of medical assistance funding. The Department of Healthcare and Family Services shall continue Title XIX Medicaid funding during the appeal, transfer, or discharge period for those residents who are recipients of assistance under Title XIX of the Social Security Act affected by Section 3-401.

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

(a) Such facility is operating without a license;

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

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

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

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

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

Section 3-417. Transfer or discharge; alternative placements. The Department shall offer transfer or discharge and relocation assistance to residents transferred or discharged under Sections 3-401 through 3-415, including information on available alternative placements. Residents shall be involved in planning the transfer or discharge and shall choose among the available alternative placements,

except that where an emergency makes prior resident involvement impossible the Department may make a temporary placement until a final placement can be arranged. Residents may choose their final alternative placement and shall be given assistance in transferring to such place. No resident may be forced to remain in a temporary or permanent placement. Where the Department makes or participates in making the relocation decision, consideration shall be given to proximity to the resident's relatives and friends. The resident shall be allowed 3 visits to potential alternative placements prior to removal, except where medically contraindicated or where the need for immediate transfer or discharge requires reduction in the number of visits.

When the Department provides information on available alternative placements in community-based settings for individuals being discharged or transferred from facilities licensed under this Act, the information must include a comprehensive list of a range of appropriate, client-oriented services and the name of and contact information for the ADA coordinator in the relocation locale. The comprehensive list must include the name and contact information for each agency or organization providing those services and a summary of the services provided by each agency or organization. A hotline or similar crisis telephone number must also be provided to individuals relocating into the community.

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

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

Section 3-420. Transfer or discharge by Department; notice. In any transfer or discharge conducted under Sections 3-415 through 3-418, the Department shall do the following:

(a) Provide written notice to the facility prior to the transfer or discharge. The notice shall state the basis for the order of transfer or discharge and shall inform the facility of its right to an informal conference prior to transfer or discharge under this Section, and its right to a subsequent hearing under Section 3-422. If a facility desires to contest a nonemergency transfer or discharge, prior to transfer or discharge it shall, within 4 working days after receipt of the notice, send a written request for an informal conference to the Department. The Department shall, within 4 working days from the receipt of the request, hold an informal conference in

the county in which the facility is located. Following this conference, the Department may affirm, modify or overrule its previous decision. Except in an emergency, transfer or discharge may not begin until the period for requesting a conference has passed or, if a conference is requested, until after a conference has been held.

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

Section 3-421. Notice of emergency. In any transfer or discharge conducted under subsection (e) of Section 3-415, the Department shall notify the facility and any resident to be removed that an emergency has been found to exist and removal has been ordered, and shall involve the residents in removal planning if possible. Following emergency removal, the Department shall provide written notice to the facility, to the resident, to the resident's representative, if any, and to a

member of the resident's family, where practicable, of the basis for the finding that an emergency existed and of the right to challenge removal under Section 3-422.

Section 3-422. Hearing to challenge transfer or discharge. Within 10 days following transfer or discharge, the facility or any resident transferred or discharged may send a written request to the Department for a hearing under Section 3-703 to challenge the transfer or discharge. The Department shall hold the hearing within 30 days of receipt of the request. The hearing shall be held at the facility from which the resident is being transferred or discharged, unless the resident or resident's representative, requests an alternative hearing site. If the facility prevails, it may file a claim against the State under the Court of Claims Act for payments lost less expenses saved as a result of the transfer or discharge. No resident transferred or discharged may be held liable for the charge for care which would have been made had the resident remained in the facility. If a resident prevails, the resident may file a claim against the State under the Court of Claims Act for any excess expenses directly caused by the order to transfer or discharge. The Department shall assist the resident in returning to the facility if assistance is requested.

Section 3-423. Closure of facility; notice. Any owner of a facility licensed under this Act shall give 90 days' notice

prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than 10% of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility as provided under Section 3-419.

PART 5. MONITORS AND RECEIVERSHIP

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

(a) The facility is operating without a license.

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

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

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

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

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

As used in subsection (d) and Section 3-503, "emergency" means a threat to the health, safety, or welfare of a resident

that the facility is unwilling or unable to correct.

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

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

Section 3-504. Hearing on petition for receiver; grounds for appointment of receiver. The court shall hold a hearing within 5 days of the filing of the petition. The petition and notice of the hearing shall be served on the owner, administrator or designated agent of the facility as provided under the Civil Practice Law, or the petition and notice of hearing shall be posted in a conspicuous place in the facility not later than 3 days before the time specified for the

hearing, unless a different period is fixed by order of the court. The court shall appoint a receiver if it finds that:

(a) The facility is operating without a license;

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

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

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

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

Section 3-506. Appointment of receiver. The court may appoint any qualified person as a receiver, except it shall not appoint any owner or affiliate of the facility which is in receivership as its receiver. The Department shall maintain a list of such persons to operate facilities which the court may consider. The court shall give preference to licensed nursing home administrators in appointing a receiver.

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

Section 3-508. Receiver's powers and duties. A receiver appointed under this Act:

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

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

(c) Shall have the same rights to possession of the building in which the facility is located and of all goods and fixtures in the building at the time the petition for receivership is filed as the owner would have had if the receiver had not been appointed, and of all assets of the facility. The receiver shall take such action as is reasonably necessary to protect or conserve the assets or property of

which the receiver takes possession, or the proceeds from any transfer thereof, and may use them only in the performance of the powers and duties set forth in this Section and by order of the court.

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

(e) May correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the safety or health of residents while they remain in the facility, provided the total cost of correction does not exceed \$3,000. The court may order expenditures for this purpose in excess of \$3,000 on application from the receiver after notice to the owner and hearing.

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

(g) Except as specified in Section 3-510, shall honor all leases, mortgages and secured transactions governing the building in which the facility is located and all goods and

fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property during the period of the receivership, or which, in the case of a purchase agreement, come due during the period of the receivership.

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

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

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

(k) Shall report to the court on any actions he has taken to bring the facility into compliance with this Act or with Title XVIII or XIX of the Social Security Act that he believes should be continued when the receivership is terminated in

order to protect the health, safety or welfare of the residents.

Section 3-509. Payment for goods or services provided by receiver.

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

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

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

Section 3-510. Receiver's avoidance of obligations; reasonable rental, price, or rate of interest to be paid by receiver.

(a) A receiver may petition the court that he or she not be required to honor any lease, mortgage, secured transaction or other wholly or partially executory contract entered into by

the owner of the facility if the rent, price or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rent, price or rate of interest at the time the contract was entered into, or if any material provision of the agreement was unreasonable.

(b) If the receiver is in possession of real estate or goods subject to a lease, mortgage or security interest which the receiver has obtained a court order to avoid under subsection (a) of this Section, and if the real estate or goods are necessary for the continued operation of the facility under this Section, the receiver may apply to the court to set a reasonable rental, price or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on the application within 15 days. The receiver shall send notice of the application to any known persons who own the property involved at least 10 days prior to the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease, security interest or mortgage involved by any person who received such notice, but the payment does not relieve the owner of the facility of any liability for the difference between the amount paid by the receiver and the amount due under the original lease, security interest or mortgage involved.

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

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

Section 3-513. Action against receiver.

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

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

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

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

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

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

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

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

Section 3-516. Accounting by receiver; Department's lien.

(a) Within 30 days after termination, the receiver shall give the court a complete accounting of all property of which

the receiver has taken possession, of all funds collected, and of the expenses of the receivership.

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

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

- (1) The building in which the facility is located;
- (2) Any fixtures, equipment or goods used in the operation of the facility;
- (3) The land on which the facility is located; or
- (4) The proceeds from any conveyance of property described in subparagraphs (1), (2) or (3) above, made by the owner within one year prior to the filing of the petition for receivership.

(d) The lien provided by this Section is prior to any lien or other interest which originates subsequent to the filing of a petition for receivership under this Article, except for a

construction or mechanic's lien arising out of work performed with the express consent of the receiver.

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

Section 3-517. Civil and criminal liability during receivership. Nothing in this Act shall be deemed to relieve any owner, administrator or employee of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator, or employee prior to the appointment of a receiver; nor shall anything contained in this Act be construed to suspend during the receivership any obligation of the owner, administrator, or employee for payment of taxes or other operating and maintenance expenses of the facility nor of the owner, administrator, employee or any other person for the

payment of mortgages or liens. The owner shall retain the right to sell or mortgage any facility under receivership, subject to approval of the court which ordered the receivership.

PART 6. DUTIES

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

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

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

Section 3-604. Class action; remedies cumulative. Any damages recoverable under Sections 3-601 through 3-607, including minimum damages as provided by these Sections, may be recovered in any action which a court may authorize to be brought as a class action pursuant to the Civil Practice Law. The remedies provided in Sections 3-601 through 3-607, are in

addition to and cumulative with any other legal remedies available to a resident. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit hereunder.

Section 3-605. Amount of damages; no effect on medical assistance eligibility. The amount of damages recovered by a resident in an action brought under Sections 3-601 through 3-607 shall be exempt for purposes of determining initial or continuing eligibility for medical assistance under the Illinois Public Aid Code, as now or hereafter amended, and shall neither be taken into consideration nor required to be applied toward the payment or partial payment of the cost of medical care or services available under the Illinois Public Aid Code.

Section 3-606. Waiver of resident's right to bring action prohibited. Any waiver by a resident or his or her legal representative of the right to commence an action under Sections 3-601 through 3-607, whether oral or in writing, shall be null and void, and without legal force or effect.

Section 3-607. Trial by jury. Any party to an action brought under Sections 3-601 through 3-607 shall be entitled to a trial by jury and any waiver of the right to a trial by a jury, whether oral or in writing, prior to the commencement of

an action, shall be null and void, and without legal force or effect.

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

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

Section 3-610. Duty to report violations.

(a) A facility employee or agent who becomes aware of abuse or neglect of a resident prohibited by Section 2-107 shall

immediately report the matter to the Department and to the facility administrator. A facility administrator who becomes aware of abuse or neglect of a resident prohibited by Section 2-107 shall immediately report the matter by telephone and in writing to the resident's representative, and to the Department. Any person may report a violation of Section 2-107 to the Department.

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

Section 3-611. Employee as perpetrator of abuse. When an investigation of a report of suspected abuse of a recipient indicates, based upon credible evidence, that an employee of a long term care facility is the perpetrator of the abuse, that employee shall immediately be barred from any further contact with residents of the facility, pending the outcome of any

further investigation, prosecution or disciplinary action against the employee.

Section 3-612. Resident as perpetrator of abuse. When an investigation of a report of suspected abuse of a resident indicates, based upon credible evidence, that another resident of the long term care facility is the perpetrator of the abuse, that resident's condition shall be immediately evaluated to determine the most suitable therapy and placement for the resident, considering the safety of that resident as well as the safety of other residents and employees of the facility.

PART 7. COMPLAINT, HEARING, AND APPEAL

Section 3-701. Public nuisance; action for injunction. The operation or maintenance of a facility in violation of this Act, or of the rules and regulations promulgated by the Department, is declared a public nuisance inimical to the public welfare. The Director in the name of the people of the State, through the Attorney General, or the State's Attorney of the county in which the facility is located, or in respect to any city, village or incorporated town which provides for the licensing and regulation of any or all such facilities, the Director or the mayor or president of the Board of Trustees, as the case may require, of the city, village or incorporated town, in the name of the people of the State, through the

Attorney General or State's attorney of the county in which the facility is located, may, in addition to other remedies herein provided, bring action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such facility.

Section 3-702. Request for investigation of violation.

(a) A person who believes that this Act or a rule promulgated under this Act may have been violated may request an investigation. The request may be submitted to the Department in writing, by telephone, or by personal visit. An oral complaint shall be reduced to writing by the Department. The Department shall request information identifying the complainant, including the name, address and telephone number, to help enable appropriate follow up. The Department shall act on such complaints via on-site visits or other methods deemed appropriate to handle the complaints with or without such identifying information, as otherwise provided under this Section. The complainant shall be informed that compliance with such request is not required to satisfy the procedures for filing a complaint under this Act.

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

(c) The Department shall not disclose the name of the

complainant unless the complainant consents in writing to the disclosure or the investigation results in a judicial proceeding, or unless disclosure is essential to the investigation. The complainant shall be given the opportunity to withdraw the complaint before disclosure. Upon the request of the complainant, the Department may permit the complainant or a representative of the complainant to accompany the person making the on-site inspection of the facility.

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

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

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

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

(f) A written determination, correction order, or warning notice concerning a complaint, together with the facility's response, shall be available for public inspection, but the name of the complainant or resident shall not be disclosed

without his or her consent.

(g) A complainant who is dissatisfied with the determination or investigation by the Department may request a hearing under Section 3-703. The facility shall be given notice of any such hearing and may participate in the hearing as a party. If a facility requests a hearing under Section 3-703 which concerns a matter covered by a complaint, the complainant shall be given notice and may participate in the hearing as a party. A request for a hearing by either a complainant or a facility shall be submitted in writing to the Department within 30 days after the mailing of the Department's findings as described in subsection (e) of this Section. Upon receipt of the request, the Department shall conduct a hearing as provided under Section 3-703.

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

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

Section 3-704. Hearing; notice; commencement. A request

for a hearing by aggrieved persons shall be taken to the Department as follows:

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

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

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

Section 3-705. Subpoenas. The Director or hearing officer may compel by subpoena or subpoena duces tecum the attendance and testimony of witnesses and the production of books and papers, and administer oaths to witnesses.

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

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

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

Section 3-709. Service of subpoenas; witness fees. All subpoenas issued by the Director or hearing officer may be served as provided for in civil actions. The fees of witnesses for attendance and travel shall be the same as the fees for witnesses before the circuit court and shall be paid by the party to such proceeding at whose request the subpoena is issued. If such subpoena is issued at the request of the Department or by a person proceeding in forma pauperis, the witness fee shall be paid by the Department as an administrative expense.

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

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

Section 3-712. Certification of record; fee. The Department shall not be required to certify any record or file any answer or otherwise appear in any proceeding for judicial review under Section 3-713 of this Act unless the party filing the complaint deposits with the clerk of the court the sum of 95 cents per page, representing the costs of such certification. Failure on the part of the plaintiff to make such deposit shall be grounds for dismissal of the action; provided, however, that persons proceeding in forma pauperis with the approval of the circuit court shall not be required to pay these fees.

Section 3-713. Judicial review; stay of enforcement of Department's decision.

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

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

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

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

PART 8. MISCELLANEOUS PROVISIONS

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

Section 3-801.05. Rules adopted under prior law. The Department shall adopt rules to implement the changes concerning licensure of facilities under this Act instead of under the Nursing Home Care Act. Until the Department adopts those rules, the rules adopted under the Nursing Home Care Act and the Public Aid Code that apply to facilities subject to licensure under this Act shall continue to apply to those facilities.

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

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

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

Section 3-808. Protocol for sexual assault victims;

nursing home. The Department shall develop a protocol for the care and treatment of residents who have been sexually assaulted in a long term care facility or elsewhere.

Section 3-808.5. Nursing home fraud, abuse, and neglect prevention and reporting.

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

(b) Any owner or licensee of a long-term care facility licensed under this Act shall be responsible for the collection and maintenance of any and all records required to be maintained under this Section and any other applicable provisions of this Act, and as a provider under the Illinois Public Aid Code, and shall be responsible for compliance with all of the disclosure requirements under this Section. All books and records and other papers and documents that are required to be kept, and all records showing compliance with all of the disclosure requirements to be made pursuant to this Section, shall be kept at the facility and shall, at all times

during business hours, be subject to inspection by any law enforcement or health oversight agency or its duly authorized agents or employees.

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

(d) Any person with an ownership interest in a long-term care facility licensed by the Department must, within 30 days of the effective date of this Act, disclose the existence of any ownership interest in any vendor who does business with the facility. The disclosures required by this subsection shall be made in the form and manner prescribed by the Department. Licensed long-term care facilities who receive Medicaid funding shall submit a copy of the disclosures required by this subsection to the Illinois Medicaid Fraud Control Unit. The owners and licensee of a long-term care facility shall maintain all records necessary to show compliance with this disclosure requirement.

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

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

Section 3-809. Rules to implement changes. In developing rules and regulations to implement this Act, the Department shall seek the input of advocates for long term care facility residents, representatives of associations representing long-term care facilities, and representatives of associations representing employees of long-term care facilities.

Section 3-810. Whistleblower protection.

(a) In this Section, "retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any employee of a facility that is taken in retaliation for the employee's involvement in a protected

activity as set forth in paragraphs (1) through (3) of subsection (b).

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

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

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

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

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

(d) The employee of the facility may be awarded all remedies necessary to make the employee whole and to prevent

future violations of this Section. Remedies imposed by the court may include, but are not limited to, all of the following:

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

(2) Two times the amount of back pay.

(3) Interest on the back pay.

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

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

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

ARTICLE IV. FACILITY PAYMENTS

Section 4-101. Payments. For facilities licensed by the Department of Public Health under the Specialized Mental Health Rehabilitation Facilities Act, the payment methodology in effect on June 30, 2011, shall be \$1 less than the rate that would have been paid pursuant to Article V of the Illinois Public Aid Code for that same facility, had the facility been licensed under a different Act and been participating in the Demonstration Program pursuant to Department rules. Any

adjustment in the support component or the capital component for facilities licensed by the Department of Public Health under the Nursing Home Care Act shall apply equally to facilities licensed by the Department of Public Health under the Specialized Mental Health Rehabilitation Facilities Act. Any change in rate methodology shall be made in statute.

ARTICLE 90. AMENDATORY PROVISIONS

Section 90-5. The Election Code is amended by changing Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4, 19-12.1, and 19-12.2 as follows:

(10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

Sec. 3-3. Every honorably discharged soldier or sailor who is an inmate of any soldiers' and sailors' home within the State of Illinois, any person who is a resident of a facility licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, or any person who is a resident of a community-integrated living arrangement, as defined in Section 3 of the Community-Integrated Living Arrangements Licensure and Certification Act, for 30 days or longer, and who is a citizen of the United States and has resided in this State and in the election district 30 days next preceding any election shall be entitled to vote in the election district in which any

such home or community-integrated living arrangement in which he is an inmate or resident is located, for all officers that now are or hereafter may be elected by the people, and upon all questions that may be submitted to the vote of the people: Provided, that he shall declare upon oath, that it was his bona fide intention at the time he entered said home or community-integrated living arrangement to become a resident thereof.

(Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

Sec. 4-6.3. The county clerk may establish a temporary place of registration for such times and at such locations within the county as the county clerk may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of the time and place of registration under this Section shall be published by the county clerk in a newspaper having a general circulation in the county not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of

registration include, but are not limited to, facilities licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each 1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by deputy county clerks or deputy registrars appointed pursuant to Section 4-6.2.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

Sec. 4-10. Except as herein provided, no person shall be registered, unless he applies in person to a registration officer, answers such relevant questions as may be asked of him by the registration officer, and executes the affidavit of registration. The registration officer shall require the applicant to furnish two forms of identification, and except in the case of a homeless individual, one of which must include his or her residence address. These forms of identification shall include, but not be limited to, any of the following: driver's license, social security card, public aid identification card, utility bill, employee or student

identification card, lease or contract for a residence, credit card, or a civic, union or professional association membership card. The registration officer shall require a homeless individual to furnish evidence of his or her use of the mailing address stated. This use may be demonstrated by a piece of mail addressed to that individual and received at that address or by a statement from a person authorizing use of the mailing address. The registration officer shall require each applicant for registration to read or have read to him the affidavit of registration before permitting him to execute the affidavit.

One of the registration officers or a deputy registration officer, county clerk, or clerk in the office of the county clerk, shall administer to all persons who shall personally apply to register the following oath or affirmation:

"You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your name, place of residence, place of birth, your qualifications as an elector and your right as such to register and vote under the laws of the State of Illinois."

The registration officer shall satisfy himself that each applicant for registration is qualified to register before registering him. If the registration officer has reason to believe that the applicant is a resident of a Soldiers' and Sailors' Home or any facility which is licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, the

following question shall be put, "When you entered the home which is your present address, was it your bona fide intention to become a resident thereof?" Any voter of a township, city, village or incorporated town in which such applicant resides, shall be permitted to be present at the place of any precinct registration and shall have the right to challenge any applicant who applies to be registered.

In case the officer is not satisfied that the applicant is qualified he shall forthwith notify such applicant in writing to appear before the county clerk to complete his registration. Upon the card of such applicant shall be written the word "incomplete" and no such applicant shall be permitted to vote unless such registration is satisfactorily completed as hereinafter provided. No registration shall be taken and marked as incomplete if information to complete it can be furnished on the date of the original application.

Any person claiming to be an elector in any election precinct and whose registration card is marked "Incomplete" may make and sign an application in writing, under oath, to the county clerk in substance in the following form:

"I do solemnly swear that I,, did on (insert date) make application to the board of registry of the precinct of the township of (or to the county clerk of county) and that said board or clerk refused to complete my registration as a qualified voter in said precinct. That I reside in said precinct, that I intend to reside in said

precinct, and am a duly qualified voter of said precinct and am entitled to be registered to vote in said precinct at the next election.

(Signature of applicant)"

All such applications shall be presented to the county clerk or to his duly authorized representative by the applicant, in person between the hours of 9:00 a.m. and 5:00 p.m. on any day after the days on which the 1969 and 1970 precinct re-registrations are held but not on any day within 27 days preceding the ensuing general election and thereafter for the registration provided in Section 4-7 all such applications shall be presented to the county clerk or his duly authorized representative by the applicant in person between the hours of 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding the ensuing general election. Such application shall be heard by the county clerk or his duly authorized representative at the time the application is presented. If the applicant for registration has registered with the county clerk, such application may be presented to and heard by the county clerk or by his duly authorized representative upon the dates specified above or at any time prior thereto designated by the county clerk.

Any otherwise qualified person who is absent from his county of residence either due to business of the United States or because he is temporarily outside the territorial limits of

the United States may become registered by mailing an application to the county clerk within the periods of registration provided for in this Article, or by simultaneous application for absentee registration and absentee ballot as provided in Article 20 of this Code.

Upon receipt of such application the county clerk shall immediately mail an affidavit of registration in duplicate, which affidavit shall contain the following and such other information as the State Board of Elections may think it proper to require for the identification of the applicant:

Name. The name of the applicant, giving surname and first or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue or other location of the dwelling, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant. Where the location cannot be determined by street and number, then the Section, congressional township and range number may be used, or such other information as may be necessary, including post office mailing address.

Term of residence in the State of Illinois and the precinct.

Nativity. The State or country in which the applicant was born.

Citizenship. Whether the applicant is native born or naturalized. If naturalized, the court, place and date of naturalization.

Age. Date of birth, by month, day and year.

Out of State address of

AFFIDAVIT OF REGISTRATION

State of)

)ss

County of)

I hereby swear (or affirm) that I am a citizen of the United States; that on the day of the next election I shall have resided in the State of Illinois and in the election precinct 30 days; that I am fully qualified to vote, that I am not registered to vote anywhere else in the United States, that I intend to remain a resident of the State of Illinois and of the election precinct, that I intend to return to the State of Illinois, and that the above statements are true.

.....

(His or her signature or mark)

Subscribed and sworn to before me, an officer qualified to administer oaths, on (insert date).

.....

Signature of officer administering oath.

Upon receipt of the executed duplicate affidavit of Registration, the county clerk shall transfer the information contained thereon to duplicate Registration Cards provided for

in Section 4-8 of this Article and shall attach thereto a copy of each of the duplicate affidavit of registration and thereafter such registration card and affidavit shall constitute the registration of such person the same as if he had applied for registration in person.

(Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

Sec. 5-9. Except as herein provided, no person shall be registered unless he applies in person to registration officer, answers such relevant questions as may be asked of him by the registration officer, and executes the affidavit of registration. The registration officer shall require the applicant to furnish two forms of identification, and except in the case of a homeless individual, one of which must include his or her residence address. These forms of identification shall include, but not be limited to, any of the following: driver's license, social security card, public aid identification card, utility bill, employee or student identification card, lease or contract for a residence, credit card, or a civic, union or professional association membership card. The registration officer shall require a homeless individual to furnish evidence of his or her use of the mailing address stated. This use may be demonstrated by a piece of mail addressed to that individual and received at that address or by

a statement from a person authorizing use of the mailing address. The registration officer shall require each applicant for registration to read or have read to him the affidavit of registration before permitting him to execute the affidavit.

One of the Deputy Registrars, the Judge of Registration, or an Officer of Registration, County Clerk, or clerk in the office of the County Clerk, shall administer to all persons who shall personally apply to register the following oath or affirmation:

"You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector and your right as such to register and vote under the laws of the State of Illinois."

The Registration Officer shall satisfy himself that each applicant for registration is qualified to register before registering him. If the registration officer has reason to believe that the applicant is a resident of a Soldiers' and Sailors' Home or any facility which is licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, the following question shall be put, "When you entered the home which is your present address, was it your bona fide intention to become a resident thereof?" Any voter of a township, city, village or incorporated town in which such applicant resides, shall be permitted to be present at the place of precinct

registration, and shall have the right to challenge any applicant who applies to be registered.

In case the officer is not satisfied that the applicant is qualified, he shall forthwith in writing notify such applicant to appear before the County Clerk to furnish further proof of his qualifications. Upon the card of such applicant shall be written the word "Incomplete" and no such applicant shall be permitted to vote unless such registration is satisfactorily completed as hereinafter provided. No registration shall be taken and marked as "incomplete" if information to complete it can be furnished on the date of the original application.

Any person claiming to be an elector in any election precinct in such township, city, village or incorporated town and whose registration is marked "Incomplete" may make and sign an application in writing, under oath, to the County Clerk in substance in the following form:

"I do solemnly swear that I,, did on (insert date) make application to the Board of Registry of the precinct of ward of the City of or of the District Town of (or to the County Clerk of) and County; that said Board or Clerk refused to complete my registration as a qualified voter in said precinct, that I reside in said precinct (or that I intend to reside in said precinct), am a duly qualified voter and entitled to vote in said precinct at the next election.

.....

(Signature of Applicant)"

All such applications shall be presented to the County Clerk by the applicant, in person between the hours of nine o'clock a.m. and five o'clock p.m., on Monday and Tuesday of the third week subsequent to the weeks in which the 1961 and 1962 precinct re-registrations are to be held, and thereafter for the registration provided in Section 5-17 of this Article, all such applications shall be presented to the County Clerk by the applicant in person between the hours of nine o'clock a.m. and nine o'clock p.m. on Monday and Tuesday of the third week prior to the date on which such election is to be held.

Any otherwise qualified person who is absent from his county of residence either due to business of the United States or because he is temporarily outside the territorial limits of the United States may become registered by mailing an application to the county clerk within the periods of registration provided for in this Article or by simultaneous application for absentee registration and absentee ballot as provided in Article 20 of this Code.

Upon receipt of such application the county clerk shall immediately mail an affidavit of registration in duplicate, which affidavit shall contain the following and such other information as the State Board of Elections may think it proper to require for the identification of the applicant:

Name. The name of the applicant, giving surname and first

or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue or other location of the dwelling, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant. Where the location cannot be determined by street and number, then the Section, congressional township and range number may be used, or such other information as may be necessary, including post office mailing address.

Term of residence in the State of Illinois and the precinct.

Nativity. The State or country in which the applicant was born.

Citizenship. Whether the applicant is native born or naturalized. If naturalized, the court, place and date of naturalization.

Age. Date of birth, by month, day and year.

Out of State address of

AFFIDAVIT OF REGISTRATION

State of)

)ss

County of)

I hereby swear (or affirm) that I am a citizen of the United States; that on the day of the next election I shall

have resided in the State of Illinois for 6 months and in the election precinct 30 days; that I am fully qualified to vote, that I am not registered to vote anywhere else in the United States, that I intend to remain a resident of the State of Illinois and of the election precinct, that I intend to return to the State of Illinois, and that the above statements are true.

.....

(His or her signature or mark)

Subscribed and sworn to before me, an officer qualified to administer oaths, on (insert date).

.....

Signature of officer administering oath.

Upon receipt of the executed duplicate affidavit of Registration, the county clerk shall transfer the information contained thereon to duplicate Registration Cards provided for in Section 5-7 of this Article and shall attach thereto a copy of each of the duplicate affidavit of registration and thereafter such registration card and affidavit shall constitute the registration of such person the same as if he had applied for registration in person.

(Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

Sec. 5-16.3. The county clerk may establish temporary places of registration for such times and at such locations within the county as the county clerk may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of time and place of registration at any such temporary place of registration under this Section shall be published by the county clerk in a newspaper having a general circulation in the county not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of registration include, but are not limited to, facilities licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each 1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by

deputy county clerks or deputy registrars appointed pursuant to Section 5-16.2.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

Sec. 6-50.3. The board of election commissioners may establish temporary places of registration for such times and at such locations as the board may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of the time and place of registration at any such temporary place of registration under this Section shall be published by the board of election commissioners in a newspaper having a general circulation in the city, village or incorporated town not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of registration include, but are not limited to facilities licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each 1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by employees of the board of election commissioners or deputy registrars appointed pursuant to Section 6-50.2.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

Sec. 6-56. Not more than 30 nor less than 28 days before any election under this Article, all owners, managers, administrators or operators of hotels, lodging houses, rooming houses, furnished apartments or facilities licensed or certified under the Nursing Home Care Act, which house 4 or more persons, outside the members of the family of such owner, manager, administrator or operator, shall file with the board of election commissioners a report, under oath, together with one copy thereof, in such form as may be required by the board of election commissioners, of the names and descriptions of all lodgers, guests or residents claiming a voting residence at the hotels, lodging houses, rooming houses, furnished apartments, or facility licensed or certified under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act under their control. In counties having a population of 500,000 or more such report shall be made on forms mailed to them by the board of election

commissioners. The board of election commissioners shall sort and assemble the sworn copies of the reports in numerical order according to ward and according to precincts within each ward and shall, not later than 5 days after the last day allowed by this Article for the filing of the reports, maintain one assembled set of sworn duplicate reports available for public inspection until 60 days after election days. Except as is otherwise expressly provided in this Article, the board shall not be required to perform any duties with respect to the sworn reports other than to mail, sort, assemble, post and file them as hereinabove provided.

Except in such cases where a precinct canvass is being conducted by the Board of Election Commissioners prior to a Primary or Election, the board of election commissioners shall compare the original copy of each such report with the list of registered voters from such addresses. Every person registered from such address and not listed in such report or whose name is different from any name so listed, shall immediately after the last day of registration be sent a notice through the United States mail, at the address appearing upon his registration record card, requiring him to appear before the board of election commissioners on one of the days specified in Section 6-45 of this Article and show cause why his registration should not be cancelled. The provisions of Sections 6-45, 6-46 and 6-47 of this Article shall apply to such hearing and proceedings subsequent thereto.

Any owner, manager or operator of any such hotel, lodging house, rooming house or furnished apartment who shall fail or neglect to file such statement and copy thereof as in this Article provided, may, upon written information of the attorney for the election commissioners, be cited by the election commissioners or upon the complaint of any voter of such city, village or incorporated town, to appear before them and furnish such sworn statement and copy thereof and make such oral statements under oath regarding such hotel, lodging house, rooming house or furnished apartment, as the election commissioners may require. The election commissioners shall sit to hear such citations on the Friday of the fourth week preceding the week in which such election is to be held. Such citation shall be served not later than the day preceding the day on which it is returnable.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

Sec. 19-4. Mailing or delivery of ballots - Time.)
Immediately upon the receipt of such application either by mail, not more than 40 days nor less than 5 days prior to such election, or by personal delivery not more than 40 days nor less than one day prior to such election, at the office of such election authority, it shall be the duty of such election authority to examine the records to ascertain whether or not such applicant is lawfully entitled to vote as requested,

including a verification of the applicant's signature by comparison with the signature on the official registration record card, and if found so to be entitled to vote, to post within one business day thereafter the name, street address, ward and precinct number or township and district number, as the case may be, of such applicant given on a list, the pages of which are to be numbered consecutively to be kept by such election authority for such purpose in a conspicuous, open and public place accessible to the public at the entrance of the office of such election authority, and in such a manner that such list may be viewed without necessity of requesting permission therefor. Within one day after posting the name and other information of an applicant for an absentee ballot, the election authority shall transmit that name and other posted information to the State Board of Elections, which shall maintain those names and other information in an electronic format on its website, arranged by county and accessible to State and local political committees. Within 2 business days after posting a name and other information on the list within its office, the election authority shall mail, postage prepaid, or deliver in person in such office an official ballot or ballots if more than one are to be voted at said election. Mail delivery of Temporarily Absent Student ballot applications pursuant to Section 19-12.3 shall be by nonforwardable mail. However, for the consolidated election, absentee ballots for certain precincts may be delivered to applicants not less than

25 days before the election if so much time is required to have prepared and printed the ballots containing the names of persons nominated for offices at the consolidated primary. The election authority shall enclose with each absentee ballot or application written instructions on how voting assistance shall be provided pursuant to Section 17-14 and a document, written and approved by the State Board of Elections, enumerating the circumstances under which a person is authorized to vote by absentee ballot pursuant to this Article; such document shall also include a statement informing the applicant that if he or she falsifies or is solicited by another to falsify his or her eligibility to cast an absentee ballot, such applicant or other is subject to penalties pursuant to Section 29-10 and Section 29-20 of the Election Code. Each election authority shall maintain a list of the name, street address, ward and precinct, or township and district number, as the case may be, of all applicants who have returned absentee ballots to such authority, and the name of such absent voter shall be added to such list within one business day from receipt of such ballot. If the absentee ballot envelope indicates that the voter was assisted in casting the ballot, the name of the person so assisting shall be included on the list. The list, the pages of which are to be numbered consecutively, shall be kept by each election authority in a conspicuous, open, and public place accessible to the public at the entrance of the office of the election

authority and in a manner that the list may be viewed without necessity of requesting permission for viewing.

Each election authority shall maintain a list for each election of the voters to whom it has issued absentee ballots. The list shall be maintained for each precinct within the jurisdiction of the election authority. Prior to the opening of the polls on election day, the election authority shall deliver to the judges of election in each precinct the list of registered voters in that precinct to whom absentee ballots have been issued by mail.

Each election authority shall maintain a list for each election of voters to whom it has issued temporarily absent student ballots. The list shall be maintained for each election jurisdiction within which such voters temporarily abide. Immediately after the close of the period during which application may be made by mail for absentee ballots, each election authority shall mail to each other election authority within the State a certified list of all such voters temporarily abiding within the jurisdiction of the other election authority.

In the event that the return address of an application for ballot by a physically incapacitated elector is that of a facility licensed or certified under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, within the jurisdiction of the election authority, and the applicant is a registered voter in the

precinct in which such facility is located, the ballots shall be prepared and transmitted to a responsible judge of election no later than 9 a.m. on the Saturday, Sunday or Monday immediately preceding the election as designated by the election authority under Section 19-12.2. Such judge shall deliver in person on the designated day the ballot to the applicant on the premises of the facility from which application was made. The election authority shall by mail notify the applicant in such facility that the ballot will be delivered by a judge of election on the designated day.

All applications for absentee ballots shall be available at the office of the election authority for public inspection upon request from the time of receipt thereof by the election authority until 30 days after the election, except during the time such applications are kept in the office of the election authority pursuant to Section 19-7, and except during the time such applications are in the possession of the judges of election.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

Sec. 19-12.1. Any qualified elector who has secured an Illinois Disabled Person Identification Card in accordance with The Illinois Identification Card Act, indicating that the person named thereon has a Class 1A or Class 2 disability or any qualified voter who has a permanent physical incapacity of

such a nature as to make it improbable that he will be able to be present at the polls at any future election, or any voter who is a resident of a facility licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act and has a condition or disability of such a nature as to make it improbable that he will be able to be present at the polls at any future election, may secure a disabled voter's or nursing home resident's identification card, which will enable him to vote under this Article as a physically incapacitated or nursing home voter.

Application for a disabled voter's or nursing home resident's identification card shall be made either: (a) in writing, with voter's sworn affidavit, to the county clerk or board of election commissioners, as the case may be, and shall be accompanied by the affidavit of the attending physician specifically describing the nature of the physical incapacity or the fact that the voter is a nursing home resident and is physically unable to be present at the polls on election days; or (b) by presenting, in writing or otherwise, to the county clerk or board of election commissioners, as the case may be, proof that the applicant has secured an Illinois Disabled Person Identification Card indicating that the person named thereon has a Class 1A or Class 2 disability. Upon the receipt of either the sworn-to application and the physician's affidavit or proof that the applicant has secured an Illinois

Disabled Person Identification Card indicating that the person named thereon has a Class 1A or Class 2 disability, the county clerk or board of election commissioners shall issue a disabled voter's or nursing home resident's identification card. Such identification cards shall be issued for a period of 5 years, upon the expiration of which time the voter may secure a new card by making application in the same manner as is prescribed for the issuance of an original card, accompanied by a new affidavit of the attending physician. The date of expiration of such five-year period shall be made known to any interested person by the election authority upon the request of such person. Applications for the renewal of the identification cards shall be mailed to the voters holding such cards not less than 3 months prior to the date of expiration of the cards.

Each disabled voter's or nursing home resident's identification card shall bear an identification number, which shall be clearly noted on the voter's original and duplicate registration record cards. In the event the holder becomes physically capable of resuming normal voting, he must surrender his disabled voter's or nursing home resident's identification card to the county clerk or board of election commissioners before the next election.

The holder of a disabled voter's or nursing home resident's identification card may make application by mail for an official ballot within the time prescribed by Section 19-2. Such application shall contain the same information as is

included in the form of application for ballot by a physically incapacitated elector prescribed in Section 19-3 except that it shall also include the applicant's disabled voter's identification card number and except that it need not be sworn to. If an examination of the records discloses that the applicant is lawfully entitled to vote, he shall be mailed a ballot as provided in Section 19-4. The ballot envelope shall be the same as that prescribed in Section 19-5 for physically disabled voters, and the manner of voting and returning the ballot shall be the same as that provided in this Article for other absentee ballots, except that a statement to be subscribed to by the voter but which need not be sworn to shall be placed on the ballot envelope in lieu of the affidavit prescribed by Section 19-5.

Any person who knowingly subscribes to a false statement in connection with voting under this Section shall be guilty of a Class A misdemeanor.

For the purposes of this Section, "nursing home resident" includes a resident of a facility licensed under the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

Sec. 19-12.2. Voting by physically incapacitated electors who have made proper application to the election authority not

later than 5 days before the regular primary and general election of 1980 and before each election thereafter shall be conducted on the premises of facilities licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act for the sole benefit of residents of such facilities. Such voting shall be conducted during any continuous period sufficient to allow all applicants to cast their ballots between the hours of 9 a.m. and 7 p.m. either on the Friday, Saturday, Sunday or Monday immediately preceding the regular election. This absentee voting on one of said days designated by the election authority shall be supervised by two election judges who must be selected by the election authority in the following order of priority: (1) from the panel of judges appointed for the precinct in which such facility is located, or from a panel of judges appointed for any other precinct within the jurisdiction of the election authority in the same ward or township, as the case may be, in which the facility is located or, only in the case where a judge or judges from the precinct, township or ward are unavailable to serve, (3) from a panel of judges appointed for any other precinct within the jurisdiction of the election authority. The two judges shall be from different political parties. Not less than 30 days before each regular election, the election authority shall have arranged with the chief administrative officer of each facility in his or its election jurisdiction a mutually convenient time period on the

Friday, Saturday, Sunday or Monday immediately preceding the election for such voting on the premises of the facility and shall post in a prominent place in his or its office a notice of the agreed day and time period for conducting such voting at each facility; provided that the election authority shall not later than noon on the Thursday before the election also post the names and addresses of those facilities from which no applications were received and in which no supervised absentee voting will be conducted. All provisions of this Code applicable to pollwatchers shall be applicable herein. To the maximum extent feasible, voting booths or screens shall be provided to insure the privacy of the voter. Voting procedures shall be as described in Article 17 of this Code, except that ballots shall be treated as absentee ballots and shall not be counted until the close of the polls on the following day. After the last voter has concluded voting, the judges shall seal the ballots in an envelope and affix their signatures across the flap of the envelope. Immediately thereafter, the judges shall bring the sealed envelope to the office of the election authority who shall deliver such ballots to the election authority's central ballot counting location prior to the closing of the polls on the day of election. The judges of election shall also report to the election authority the name of any applicant in the facility who, due to unforeseen circumstance or condition or because of a religious holiday, was unable to vote. In this event, the election authority may

appoint a qualified person from his or its staff to deliver the ballot to such applicant on the day of election. This staff person shall follow the same procedures prescribed for judges conducting absentee voting in such facilities and shall return the ballot to the central ballot counting location before the polls close. However, if the facility from which the application was made is also used as a regular precinct polling place for that voter, voting procedures heretofore prescribed may be implemented by 2 of the election judges of opposite party affiliation assigned to that polling place during the hours of voting on the day of the election. Judges of election shall be compensated not less than \$25.00 for conducting absentee voting in such facilities.

Not less than 120 days before each regular election, the Department of Public Health shall certify to the State Board of Elections a list of the facilities licensed or certified pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, and shall indicate the approved bed capacity and the name of the chief administrative officer of each such facility, and the State Board of Elections shall certify the same to the appropriate election authority within 20 days thereafter.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-10. The Illinois Act on the Aging is amended by changing Section 4.04 as follows:

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

Sec. 4.04. Long Term Care Ombudsman Program.

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

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

(1) "Access" has the same meaning as in Section 1-104 of the Nursing Home Care Act, as now or hereafter amended; that is, it means the right to:

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

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

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

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

(v) Observe all areas of the long term care

facility or supportive living facilities, assisted living or shared housing establishment except the living area of any resident who protests the observation.

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

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

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

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

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

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

The Department, in consultation with the Office, shall promulgate administrative rules in accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended, to establish the responsibilities of the Department and the Office of State Long Term Care Ombudsman and the designated regional Ombudsman programs. The administrative rules shall include the responsibility of the Office and designated regional programs to investigate and resolve complaints made by or on behalf of residents of long term care facilities, supportive living facilities, and assisted living and shared housing establishments, including the option to

serve residents under the age of 60, relating to actions, inaction, or decisions of providers, or their representatives, of long term care facilities, of supported living facilities, of assisted living and shared housing establishments, of public agencies, or of social services agencies, which may adversely affect the health, safety, welfare, or rights of such residents. The Office and designated regional programs may represent all residents, but are not required by this Act to represent persons under 60 years of age, except to the extent required by federal law. When necessary and appropriate, representatives of the Office shall refer complaints to the appropriate regulatory State agency. The Department, in consultation with the Office, shall cooperate with the Department of Human Services and other State agencies in providing information and training to designated regional long term care ombudsman programs about the appropriate assessment and treatment (including information about appropriate supportive services, treatment options, and assessment of rehabilitation potential) of the residents they serve, including children, persons with mental illness (other than Alzheimer's disease and related disorders), and persons with developmental disabilities.

The State Long Term Care Ombudsman and all other ombudsmen, as defined in paragraph (3.1) of subsection (b) must submit to background checks under the Health Care Worker Background Check Act and receive training, as prescribed by the Illinois

Department on Aging, before visiting facilities. The training must include information specific to assisted living establishments, supportive living facilities, and shared housing establishments and to the rights of residents guaranteed under the corresponding Acts and administrative rules.

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

(1) In collaboration with the Attorney General, create a Consumer Choice Information Report form to be completed by all licensed long term care facilities to aid Illinoisans and their families in making informed choices about long term care. The Office shall create a Consumer Choice Information Report for each type of licensed long term care facility. The Office shall collaborate with the Attorney General and the Department of Human Services to create a Consumer Choice Information Report form for facilities licensed under the MR/DD Community Care Act.

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

- (A) Medical Care, Services, and Treatment.
- (B) Special Services and Amenities.
- (C) Staffing.
- (D) Facility Statistics and Resident Demographics.

(E) Ownership and Administration.

(F) Safety and Security.

(G) Meals and Nutrition.

(H) Rooms, Furnishings, and Equipment.

(I) Family, Volunteer, and Visitation Provisions.

(3) Make this information accessible to the public, including on the Internet by means of a hyperlink labeled "Resident's Right to Know" on the Office's World Wide Web home page. Information about facilities licensed under the MR/DD Community Care Act shall be made accessible to the public by the Department of Human Services, including on the Internet by means of a hyperlink labeled "Resident's and Families' Right to Know" on the Department of Human Services' "For Customers" website.

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

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

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

and Medicaid Services.

(d) Access and visitation rights.

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

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

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

(2) Each long term care facility, supportive living facility, assisted living establishment, and shared housing establishment shall display, in multiple,

conspicuous public places within the facility accessible to both visitors and residents and in an easily readable format, the address and phone number of the Office of the Long Term Care Ombudsman, in a manner prescribed by the Office.

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

(f) Business offenses.

(1) No person shall:

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

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

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

(3) The Director of Aging, in consultation with the Office, shall notify the State's Attorney of the county in

which the long term care facility, supportive living facility, or assisted living or shared housing establishment is located, or the Attorney General, of any violations of this Section.

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

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

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

(3) the disclosure is required by court order.

(h) Legal representation. The Attorney General shall provide legal representation to any representative of the

Office against whom suit or other legal action is brought in connection with the performance of the representative's official duties, in accordance with the State Employee Indemnification Act.

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

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

(Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09; 96-328, eff. 8-11-09; 96-758, eff. 8-25-09; 96-1372, eff. 7-29-10.)

Section 90-15. The Mental Health and Developmental Disabilities Administrative Act is amended by changing Section 15 as follows:

(20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

Sec. 15. Before any person is released from a facility operated by the State pursuant to an absolute discharge or a conditional discharge from hospitalization under this Act, the facility director of the facility in which such person is hospitalized shall determine that such person is not currently in need of hospitalization and:

(a) is able to live independently in the community; or

(b) requires further oversight and supervisory care for which arrangements have been made with responsible relatives or supervised residential program approved by the Department; or

(c) requires further personal care or general oversight as defined by the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act, for which placement arrangements have been made with a suitable family home or other licensed facility approved by the Department under this Section; or

(d) requires community mental health services for which arrangements have been made with a community mental health provider in accordance with criteria, standards, and procedures promulgated by rule.

Such determination shall be made in writing and shall become a part of the facility record of such absolutely or conditionally discharged person. When the determination indicates that the condition of the person to be granted an absolute discharge or a conditional discharge is described

under subparagraph (c) or (d) of this Section, the name and address of the continuing care facility or home to which such person is to be released shall be entered in the facility record. Where a discharge from a mental health facility is made under subparagraph (c), the Department shall assign the person so discharged to an existing community based not-for-profit agency for participation in day activities suitable to the person's needs, such as but not limited to social and vocational rehabilitation, and other recreational, educational and financial activities unless the community based not-for-profit agency is unqualified to accept such assignment. Where the clientele of any not-for-profit agency increases as a result of assignments under this amendatory Act of 1977 by more than 3% over the prior year, the Department shall fully reimburse such agency for the costs of providing services to such persons in excess of such 3% increase. The Department shall keep written records detailing how many persons have been assigned to a community based not-for-profit agency and how many persons were not so assigned because the community based agency was unable to accept the assignments, in accordance with criteria, standards, and procedures promulgated by rule. Whenever a community based agency is found to be unable to accept the assignments, the name of the agency and the reason for the finding shall be included in the report.

Insofar as desirable in the interests of the former recipient, the facility, program or home in which the

discharged person is to be placed shall be located in or near the community in which the person resided prior to hospitalization or in the community in which the person's family or nearest next of kin presently reside. Placement of the discharged person in facilities, programs or homes located outside of this State shall not be made by the Department unless there are no appropriate facilities, programs or homes available within this State. Out-of-state placements shall be subject to return of recipients so placed upon the availability of facilities, programs or homes within this State to accommodate these recipients, except where placement in a contiguous state results in locating a recipient in a facility or program closer to the recipient's home or family. If an appropriate facility or program becomes available equal to or closer to the recipient's home or family, the recipient shall be returned to and placed at the appropriate facility or program within this State.

To place any person who is under a program of the Department at board in a suitable family home or in such other facility or program as the Department may consider desirable. The Department may place in licensed nursing homes, sheltered care homes, or homes for the aged those persons whose behavioral manifestations and medical and nursing care needs are such as to be substantially indistinguishable from persons already living in such facilities. Prior to any placement by the Department under this Section, a determination shall be

made by the personnel of the Department, as to the capability and suitability of such facility to adequately meet the needs of the person to be discharged. When specialized programs are necessary in order to enable persons in need of supervised living to develop and improve in the community, the Department shall place such persons only in specialized residential care facilities which shall meet Department standards including restricted admission policy, special staffing and programming for social and vocational rehabilitation, in addition to the requirements of the appropriate State licensing agency. The Department shall not place any new person in a facility the license of which has been revoked or not renewed on grounds of inadequate programming, staffing, or medical or adjunctive services, regardless of the pendency of an action for administrative review regarding such revocation or failure to renew. Before the Department may transfer any person to a licensed nursing home, sheltered care home or home for the aged or place any person in a specialized residential care facility the Department shall notify the person to be transferred, or a responsible relative of such person, in writing, at least 30 days before the proposed transfer, with respect to all the relevant facts concerning such transfer, except in cases of emergency when such notice is not required. If either the person to be transferred or a responsible relative of such person objects to such transfer, in writing to the Department, at any time after receipt of notice and before the transfer,

the facility director of the facility in which the person was a recipient shall immediately schedule a hearing at the facility with the presence of the facility director, the person who objected to such proposed transfer, and a psychiatrist who is familiar with the record of the person to be transferred. Such person to be transferred or a responsible relative may be represented by such counsel or interested party as he may appoint, who may present such testimony with respect to the proposed transfer. Testimony presented at such hearing shall become a part of the facility record of the person-to-be-transferred. The record of testimony shall be held in the person-to-be-transferred's record in the central files of the facility. If such hearing is held a transfer may only be implemented, if at all, in accordance with the results of such hearing. Within 15 days after such hearing the facility director shall deliver his findings based on the record of the case and the testimony presented at the hearing, by registered or certified mail, to the parties to such hearing. The findings of the facility director shall be deemed a final administrative decision of the Department. For purposes of this Section, "case of emergency" means those instances in which the health of the person to be transferred is imperiled and the most appropriate mental health care or medical care is available at a licensed nursing home, sheltered care home or home for the aged or a specialized residential care facility.

Prior to placement of any person in a facility under this

Section the Department shall ensure that an appropriate training plan for staff is provided by the facility. Said training may include instruction and demonstration by Department personnel qualified in the area of mental illness or mental retardation, as applicable to the person to be placed. Training may be given both at the facility from which the recipient is transferred and at the facility receiving the recipient, and may be available on a continuing basis subsequent to placement. In a facility providing services to former Department recipients, training shall be available as necessary for facility staff. Such training will be on a continuing basis as the needs of the facility and recipients change and further training is required.

The Department shall not place any person in a facility which does not have appropriately trained staff in sufficient numbers to accommodate the recipient population already at the facility. As a condition of further or future placements of persons, the Department shall require the employment of additional trained staff members at the facility where said persons are to be placed. The Secretary, or his or her designate, shall establish written guidelines for placement of persons in facilities under this Act. The Department shall keep written records detailing which facilities have been determined to have staff who have been appropriately trained by the Department and all training which it has provided or required under this Section.

Bills for the support for a person boarded out shall be payable monthly out of the proper maintenance funds and shall be audited as any other accounts of the Department. If a person is placed in a facility or program outside the Department, the Department may pay the actual costs of residence, treatment or maintenance in such facility and may collect such actual costs or a portion thereof from the recipient or the estate of a person placed in accordance with this Section.

Other than those placed in a family home the Department shall cause all persons who are placed in a facility, as defined by the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act, or in designated community living situations or programs, to be visited at least once during the first month following placement, and once every month thereafter for the first year following placement when indicated, but at least quarterly. After the first year, the Department shall determine at what point the appropriate licensing entity for the facility or designated community living situation or program will assume the responsibility of ensuring that appropriate services are being provided to the resident. Once that responsibility is assumed, the Department may discontinue such visits. If a long term care facility has periodic care plan conferences, the visitor may participate in those conferences, if such participation is approved by the resident or the resident's guardian. Visits shall be made by qualified and trained Department personnel, or their designee,

in the area of mental health or developmental disabilities applicable to the person visited, and shall be made on a more frequent basis when indicated. The Department may not use as designee any personnel connected with or responsible to the representatives of any facility in which persons who have been transferred under this Section are placed. In the course of such visit there shall be consideration of the following areas, but not limited thereto: effects of transfer on physical and mental health of the person, sufficiency of nursing care and medical coverage required by the person, sufficiency of staff personnel and ability to provide basic care for the person, social, recreational and programmatic activities available for the person, and other appropriate aspects of the person's environment.

A report containing the above observations shall be made to the Department, to the licensing agency, and to any other appropriate agency subsequent to each visitation. The report shall contain recommendations to improve the care and treatment of the resident, as necessary, which shall be reviewed by the facility's interdisciplinary team and the resident or the resident's legal guardian.

Upon the complaint of any person placed in accordance with this Section or any responsible citizen or upon discovery that such person has been abused, neglected, or improperly cared for, or that the placement does not provide the type of care required by the recipient's current condition, the Department

immediately shall investigate, and determine if the well-being, health, care, or safety of any person is affected by any of the above occurrences, and if any one of the above occurrences is verified, the Department shall remove such person at once to a facility of the Department or to another facility outside the Department, provided such person's needs can be met at said facility. The Department may also provide any person placed in accordance with this Section who is without available funds, and who is permitted to engage in employment outside the facility, such sums for the transportation, and other expenses as may be needed by him until he receives his wages for such employment.

The Department shall promulgate rules and regulations governing the purchase of care for persons who are wards of or who are receiving services from the Department. Such rules and regulations shall apply to all monies expended by any agency of the State of Illinois for services rendered by any person, corporate entity, agency, governmental agency or political subdivision whether public or private outside of the Department whether payment is made through a contractual, per-diem or other arrangement. No funds shall be paid to any person, corporation, agency, governmental entity or political subdivision without compliance with such rules and regulations.

The rules and regulations governing purchase of care shall describe categories and types of service deemed appropriate for

purchase by the Department.

Any provider of services under this Act may elect to receive payment for those services, and the Department is authorized to arrange for that payment, by means of direct deposit transmittals to the service provider's account maintained at a bank, savings and loan association, or other financial institution. The financial institution shall be approved by the Department, and the deposits shall be in accordance with rules and regulations adopted by the Department.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-20. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Sections 2310-550, 2310-560, 2310-565, and 2310-625 as follows:

(20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

Sec. 2310-550. Long-term care facilities. The Department may perform, in all long-term care facilities as defined in the Nursing Home Care Act, all facilities as defined in the Specialized Mental Health Rehabilitation Act, and all facilities as defined in the MR/DD Community Care Act, all inspection, evaluation, certification, and inspection of care duties that the federal government may require the State of Illinois to perform or have performed as a condition of

participation in any programs under Title XVIII or Title XIX of the federal Social Security Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

Sec. 2310-560. Advisory committees concerning construction of facilities.

(a) The Director shall appoint an advisory committee. The committee shall be established by the Department by rule. The Director and the Department shall consult with the advisory committee concerning the application of building codes and Department rules related to those building codes to facilities under the Ambulatory Surgical Treatment Center Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, and the MR/DD Community Care Act.

(b) The Director shall appoint an advisory committee to advise the Department and to conduct informal dispute resolution concerning the application of building codes for new and existing construction and related Department rules and standards under the Hospital Licensing Act, including without limitation rules and standards for (i) design and construction, (ii) engineering and maintenance of the physical plant, site, equipment, and systems (heating, cooling, electrical, ventilation, plumbing, water, sewer, and solid waste disposal), and (iii) fire and safety. The advisory committee shall be composed of all of the following members:

(1) The chairperson or an elected representative from the Hospital Licensing Board under the Hospital Licensing Act.

(2) Two health care architects with a minimum of 10 years of experience in institutional design and building code analysis.

(3) Two engineering professionals (one mechanical and one electrical) with a minimum of 10 years of experience in institutional design and building code analysis.

(4) One commercial interior design professional with a minimum of 10 years of experience.

(5) Two representatives from provider associations.

(6) The Director or his or her designee, who shall serve as the committee moderator.

Appointments shall be made with the concurrence of the Hospital Licensing Board. The committee shall submit recommendations concerning the application of building codes and related Department rules and standards to the Hospital Licensing Board for review and comment prior to submission to the Department. The committee shall submit recommendations concerning informal dispute resolution to the Director. The Department shall provide per diem and travel expenses to the committee members.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

Sec. 2310-565. Facility construction training program. The Department shall conduct, at least annually, a joint in-service training program for architects, engineers, interior designers, and other persons involved in the construction of a facility under the Ambulatory Surgical Treatment Center Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, the MR/DD Community Care Act, or the Hospital Licensing Act on problems and issues relating to the construction of facilities under any of those Acts.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-625)

Sec. 2310-625. Emergency Powers.

(a) Upon proclamation of a disaster by the Governor, as provided for in the Illinois Emergency Management Agency Act, the Director of Public Health shall have the following powers, which shall be exercised only in coordination with the Illinois Emergency Management Agency and the Department of Financial and Professional Regulation:

(1) The power to suspend the requirements for temporary or permanent licensure or certification of persons who are licensed or certified in another state and are working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(2) The power to modify the scope of practice

restrictions under the Emergency Medical Services (EMS) Systems Act for any persons who are licensed under that Act for any person working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(3) The power to modify the scope of practice restrictions under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act for Certified Nursing Assistants for any person working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(b) Persons exempt from licensure or certification under paragraph (1) of subsection (a) and persons operating under modified scope of practice provisions under paragraph (2) of subsection (a) and paragraph (3) of subsection (a) shall be exempt from licensure or certification or subject to modified scope of practice only until the declared disaster has ended as provided by law. For purposes of this Section, persons working under the direction of an emergency services and disaster agency accredited by the Illinois Emergency Management Agency and a local public health department, pursuant to a declared disaster, shall be deemed to be working under the direction of the Illinois Emergency Management Agency and the Department of Public Health.

(c) The Director shall exercise these powers by way of

proclamation.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-25. The Abuse of Adults with Disabilities Intervention Act is amended by changing Section 15 as follows:

(20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

Sec. 15. Definitions. As used in this Act:

"Abuse" means causing any physical, sexual, or mental injury to an adult with disabilities, including exploitation of the adult's financial resources. Nothing in this Act shall be construed to mean that an adult with disabilities is a victim of abuse or neglect for the sole reason that he or she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination. Nothing in this Act shall be construed to mean that an adult with disabilities is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

"Adult with disabilities" means a person aged 18 through 59 who resides in a domestic living situation and whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

"Department" means the Department of Human Services.

"Adults with Disabilities Abuse Project" or "project"

means that program within the Office of Inspector General designated by the Department of Human Services to receive and assess reports of alleged or suspected abuse, neglect, or exploitation of adults with disabilities.

"Domestic living situation" means a residence where the adult with disabilities lives alone or with his or her family or household members, a care giver, or others or at a board and care home or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act or Section 1-113 of the MR/DD Community Care Act or Section 1-113 of the Specialized Mental Health Rehabilitation Act.

(2) A life care facility as defined in the Life Care Facilities Act.

(3) A home, institution, or other place operated by the federal government, a federal agency, or the State.

(4) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities and that is required to be licensed under the Hospital Licensing Act.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A community-integrated living arrangement as

defined in the Community-Integrated Living Arrangements Licensure and Certification Act or community residential alternative as licensed under that Act.

"Emergency" means a situation in which an adult with disabilities is in danger of death or great bodily harm.

"Exploitation" means the illegal, including tortious, use of the assets or resources of an adult with disabilities. Exploitation includes, but is not limited to, the misappropriation of assets or resources of an adult with disabilities by undue influence, by breach of a fiduciary relationship, by fraud, deception, or extortion, or by the use of the assets or resources in a manner contrary to law.

"Family or household members" means a person who as a family member, volunteer, or paid care provider has assumed responsibility for all or a portion of the care of an adult with disabilities who needs assistance with activities of daily living.

"Neglect" means the failure of another individual to provide an adult with disabilities with or the willful withholding from an adult with disabilities the necessities of life, including, but not limited to, food, clothing, shelter, or medical care.

Nothing in the definition of "neglect" shall be construed to impose a requirement that assistance be provided to an adult with disabilities over his or her objection in the absence of a court order, nor to create any new affirmative duty to provide

support, assistance, or intervention to an adult with disabilities. Nothing in this Act shall be construed to mean that an adult with disabilities is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

"Physical abuse" includes sexual abuse and means any of the following:

(1) knowing or reckless use of physical force, confinement, or restraint;

(2) knowing, repeated, and unnecessary sleep deprivation; or

(3) knowing or reckless conduct which creates an immediate risk of physical harm.

"Secretary" means the Secretary of Human Services.

"Sexual abuse" means touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with an adult with disabilities when the adult with disabilities is unable to understand, unwilling to consent, threatened, or physically forced to engage in sexual behavior.

"Substantiated case" means a reported case of alleged or suspected abuse, neglect, or exploitation in which the Adults with Disabilities Abuse Project staff, after assessment, determines that there is reason to believe abuse, neglect, or exploitation has occurred.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-30. The Criminal Identification Act is amended by changing Section 7.5 as follows:

(20 ILCS 2630/7.5)

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

(1) Existence of the warrant.

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

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

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

Section 90-35. The Illinois Finance Authority Act is amended by changing Section 801-10 as follows:

(20 ILCS 3501/801-10)

Sec. 801-10. Definitions. The following terms, whenever used or referred to in this Act, shall have the following meanings, except in such instances where the context may clearly indicate otherwise:

(a) The term "Authority" means the Illinois Finance Authority created by this Act.

(b) The term "project" means an industrial project, conservation project, housing project, public purpose project, higher education project, health facility project, cultural institution project, agricultural facility or agribusiness, and "project" may include any combination of one or more of the foregoing undertaken jointly by any person with one or more other persons.

(c) The term "public purpose project" means any project or facility including without limitation land, buildings, structures, machinery, equipment and all other real and personal property, which is authorized or required by law to be acquired, constructed, improved, rehabilitated, reconstructed, replaced or maintained by any unit of government or any other lawful public purpose which is authorized or required by law to be undertaken by any unit of government.

(d) The term "industrial project" means the acquisition, construction, refurbishment, creation, development or redevelopment of any facility, equipment, machinery, real

property or personal property for use by any instrumentality of the State or its political subdivisions, for use by any person or institution, public or private, for profit or not for profit, or for use in any trade or business including, but not limited to, any industrial, manufacturing or commercial enterprise and which is (1) a capital project including but not limited to: (i) land and any rights therein, one or more buildings, structures or other improvements, machinery and equipment, whether now existing or hereafter acquired, and whether or not located on the same site or sites; (ii) all appurtenances and facilities incidental to the foregoing, including, but not limited to utilities, access roads, railroad sidings, track, docking and similar facilities, parking facilities, dockage, wharfage, railroad roadbed, track, trestle, depot, terminal, switching and signaling or related equipment, site preparation and landscaping; and (iii) all non-capital costs and expenses relating thereto or (2) any addition to, renovation, rehabilitation or improvement of a capital project or (3) any activity or undertaking which the Authority determines will aid, assist or encourage economic growth, development or redevelopment within the State or any area thereof, will promote the expansion, retention or diversification of employment opportunities within the State or any area thereof or will aid in stabilizing or developing any industry or economic sector of the State economy. The term "industrial project" also means the production of motion

pictures.

(e) The term "bond" or "bonds" shall include bonds, notes (including bond, grant or revenue anticipation notes), certificates and/or other evidences of indebtedness representing an obligation to pay money, including refunding bonds.

(f) The terms "lease agreement" and "loan agreement" shall mean: (i) an agreement whereby a project acquired by the Authority by purchase, gift or lease is leased to any person, corporation or unit of local government which will use or cause the project to be used as a project as heretofore defined upon terms providing for lease rental payments at least sufficient to pay when due all principal of, interest and premium, if any, on any bonds of the Authority issued with respect to such project, providing for the maintenance, insuring and operation of the project on terms satisfactory to the Authority, providing for disposition of the project upon termination of the lease term, including purchase options or abandonment of the premises, and such other terms as may be deemed desirable by the Authority, or (ii) any agreement pursuant to which the Authority agrees to loan the proceeds of its bonds issued with respect to a project or other funds of the Authority to any person which will use or cause the project to be used as a project as heretofore defined upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on any bonds of the

Authority, if any, issued with respect to the project, and providing for maintenance, insurance and other matters as may be deemed desirable by the Authority.

(g) The term "financial aid" means the expenditure of Authority funds or funds provided by the Authority through the issuance of its bonds, notes or other evidences of indebtedness or from other sources for the development, construction, acquisition or improvement of a project.

(h) The term "person" means an individual, corporation, unit of government, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common interest, or any other legal entity.

(i) The term "unit of government" means the federal government, the State or unit of local government, a school district, or any agency or instrumentality, office, officer, department, division, bureau, commission, college or university thereof.

(j) The term "health facility" means: (a) any public or private institution, place, building, or agency required to be licensed under the Hospital Licensing Act; (b) any public or private institution, place, building, or agency required to be licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act; (c) any public or licensed private hospital as defined in the Mental Health and Developmental Disabilities Code; (d) any such facility exempted from such licensure when the Director of

Public Health attests that such exempted facility meets the statutory definition of a facility subject to licensure; (e) any other public or private health service institution, place, building, or agency which the Director of Public Health attests is subject to certification by the Secretary, U.S. Department of Health and Human Services under the Social Security Act, as now or hereafter amended, or which the Director of Public Health attests is subject to standard-setting by a recognized public or voluntary accrediting or standard-setting agency; (f) any public or private institution, place, building or agency engaged in providing one or more supporting services to a health facility; (g) any public or private institution, place, building or agency engaged in providing training in the healing arts, including but not limited to schools of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy or nursing, schools for the training of x-ray, laboratory or other health care technicians and schools for the training of para-professionals in the health care field; (h) any public or private congregate, life or extended care or elderly housing facility or any public or private home for the aged or infirm, including, without limitation, any Facility as defined in the Life Care Facilities Act; (i) any public or private mental, emotional or physical rehabilitation facility or any public or private educational, counseling, or rehabilitation facility or home, for those persons with a developmental disability, those who are physically ill or disabled, the emotionally disturbed,

those persons with a mental illness or persons with learning or similar disabilities or problems; (j) any public or private alcohol, drug or substance abuse diagnosis, counseling treatment or rehabilitation facility, (k) any public or private institution, place, building or agency licensed by the Department of Children and Family Services or which is not so licensed but which the Director of Children and Family Services attests provides child care, child welfare or other services of the type provided by facilities subject to such licensure; (l) any public or private adoption agency or facility; and (m) any public or private blood bank or blood center. "Health facility" also means a public or private structure or structures suitable primarily for use as a laboratory, laundry, nurses or interns residence or other housing or hotel facility used in whole or in part for staff, employees or students and their families, patients or relatives of patients admitted for treatment or care in a health facility, or persons conducting business with a health facility, physician's facility, surgicenter, administration building, research facility, maintenance, storage or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, including parking or other facilities or other supporting service structures required or useful for the orderly conduct of such health facility. "Health facility" also means, with respect to a project located outside the State, any public or private institution, place, building,

or agency which provides services similar to those described above, provided that such project is owned, operated, leased or managed by a participating health institution located within the State, or a participating health institution affiliated with an entity located within the State.

(k) The term "participating health institution" means (i) a private corporation or association or (ii) a public entity of this State, in either case authorized by the laws of this State or the applicable state to provide or operate a health facility as defined in this Act and which, pursuant to the provisions of this Act, undertakes the financing, construction or acquisition of a project or undertakes the refunding or refinancing of obligations, loans, indebtedness or advances as provided in this Act.

(l) The term "health facility project", means a specific health facility work or improvement to be financed or refinanced (including without limitation through reimbursement of prior expenditures), acquired, constructed, enlarged, remodeled, renovated, improved, furnished, or equipped, with funds provided in whole or in part hereunder, any accounts receivable, working capital, liability or insurance cost or operating expense financing or refinancing program of a health facility with or involving funds provided in whole or in part hereunder, or any combination thereof.

(m) The term "bond resolution" means the resolution or resolutions authorizing the issuance of, or providing terms and

conditions related to, bonds issued under this Act and includes, where appropriate, any trust agreement, trust indenture, indenture of mortgage or deed of trust providing terms and conditions for such bonds.

(n) The term "property" means any real, personal or mixed property, whether tangible or intangible, or any interest therein, including, without limitation, any real estate, leasehold interests, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, rights of way, structures, accounts, contract rights or any interest therein.

(o) The term "revenues" means, with respect to any project, the rents, fees, charges, interest, principal repayments, collections and other income or profit derived therefrom.

(p) The term "higher education project" means, in the case of a private institution of higher education, an educational facility to be acquired, constructed, enlarged, remodeled, renovated, improved, furnished, or equipped, or any combination thereof.

(q) The term "cultural institution project" means, in the case of a cultural institution, a cultural facility to be acquired, constructed, enlarged, remodeled, renovated, improved, furnished, or equipped, or any combination thereof.

(r) The term "educational facility" means any property located within the State, or any property located outside the State, provided that, if the property is located outside the

State, it must be owned, operated, leased or managed by an entity located within the State or an entity affiliated with an entity located within the State, in each case constructed or acquired before or after the effective date of this Act, which is or will be, in whole or in part, suitable for the instruction, feeding, recreation or housing of students, the conducting of research or other work of a private institution of higher education, the use by a private institution of higher education in connection with any educational, research or related or incidental activities then being or to be conducted by it, or any combination of the foregoing, including, without limitation, any such property suitable for use as or in connection with any one or more of the following: an academic facility, administrative facility, agricultural facility, assembly hall, athletic facility, auditorium, boating facility, campus, communication facility, computer facility, continuing education facility, classroom, dining hall, dormitory, exhibition hall, fire fighting facility, fire prevention facility, food service and preparation facility, gymnasium, greenhouse, health care facility, hospital, housing, instructional facility, laboratory, library, maintenance facility, medical facility, museum, offices, parking area, physical education facility, recreational facility, research facility, stadium, storage facility, student union, study facility, theatre or utility.

(s) The term "cultural facility" means any property located

within the State, or any property located outside the State, provided that, if the property is located outside the State, it must be owned, operated, leased or managed by an entity located within the State or an entity affiliated with an entity located within the State, in each case constructed or acquired before or after the effective date of this Act, which is or will be, in whole or in part, suitable for the particular purposes or needs of a cultural institution, including, without limitation, any such property suitable for use as or in connection with any one or more of the following: an administrative facility, aquarium, assembly hall, auditorium, botanical garden, exhibition hall, gallery, greenhouse, library, museum, scientific laboratory, theater or zoological facility, and shall also include, without limitation, books, works of art or music, animal, plant or aquatic life or other items for display, exhibition or performance. The term "cultural facility" includes buildings on the National Register of Historic Places which are owned or operated by nonprofit entities.

(t) "Private institution of higher education" means a not-for-profit educational institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which is authorized by law to provide a program of education beyond the high school level and which:

- (1) Admits as regular students only individuals having

a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Provides an educational program for which it awards a bachelor's degree, or provides an educational program, admission into which is conditioned upon the prior attainment of a bachelor's degree or its equivalent, for which it awards a postgraduate degree, or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(3) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, and holds an unrevoked certificate of approval under the Private College Act from the Board of Higher Education, or is qualified as a "degree granting institution" under the Academic Degree Act; and

(4) Does not discriminate in the admission of students

on the basis of race or color. "Private institution of higher education" also includes any "academic institution".

(u) The term "academic institution" means any not-for-profit institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which institution engages in, or facilitates academic, scientific, educational or professional research or learning in a field or fields of study taught at a private institution of higher education. Academic institutions include, without limitation, libraries, archives, academic, scientific, educational or professional societies, institutions, associations or foundations having such purposes.

(v) The term "cultural institution" means any not-for-profit institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which institution engages in the cultural, intellectual, scientific, educational or artistic enrichment of the people of the State. Cultural institutions include, without limitation, aquaria, botanical societies, historical societies, libraries, museums, performing arts associations or societies, scientific societies and zoological societies.

(w) The term "affiliate" means, with respect to financing of an agricultural facility or an agribusiness, any lender, any

person, firm or corporation controlled by, or under common control with, such lender, and any person, firm or corporation controlling such lender.

(x) The term "agricultural facility" means land, any building or other improvement thereon or thereto, and any personal properties deemed necessary or suitable for use, whether or not now in existence, in farming, ranching, the production of agricultural commodities (including, without limitation, the products of aquaculture, hydroponics and silviculture) or the treating, processing or storing of such agricultural commodities when such activities are customarily engaged in by farmers as a part of farming.

(y) The term "lender" with respect to financing of an agricultural facility or an agribusiness, means any federal or State chartered bank, Federal Land Bank, Production Credit Association, Bank for Cooperatives, federal or State chartered savings and loan association or building and loan association, Small Business Investment Company or any other institution qualified within this State to originate and service loans, including, but without limitation to, insurance companies, credit unions and mortgage loan companies. "Lender" also means a wholly owned subsidiary of a manufacturer, seller or distributor of goods or services that makes loans to businesses or individuals, commonly known as a "captive finance company".

(z) The term "agribusiness" means any sole proprietorship, limited partnership, co-partnership, joint venture,

corporation or cooperative which operates or will operate a facility located within the State of Illinois that is related to the processing of agricultural commodities (including, without limitation, the products of aquaculture, hydroponics and silviculture) or the manufacturing, production or construction of agricultural buildings, structures, equipment, implements, and supplies, or any other facilities or processes used in agricultural production. Agribusiness includes but is not limited to the following:

(1) grain handling and processing, including grain storage, drying, treatment, conditioning, mailing and packaging;

(2) seed and feed grain development and processing;

(3) fruit and vegetable processing, including preparation, canning and packaging;

(4) processing of livestock and livestock products, dairy products, poultry and poultry products, fish or apiarian products, including slaughter, shearing, collecting, preparation, canning and packaging;

(5) fertilizer and agricultural chemical manufacturing, processing, application and supplying;

(6) farm machinery, equipment and implement manufacturing and supplying;

(7) manufacturing and supplying of agricultural commodity processing machinery and equipment, including machinery and equipment used in slaughter, treatment,

handling, collecting, preparation, canning or packaging of agricultural commodities;

(8) farm building and farm structure manufacturing, construction and supplying;

(9) construction, manufacturing, implementation, supplying or servicing of irrigation, drainage and soil and water conservation devices or equipment;

(10) fuel processing and development facilities that produce fuel from agricultural commodities or byproducts;

(11) facilities and equipment for processing and packaging agricultural commodities specifically for export;

(12) facilities and equipment for forestry product processing and supplying, including sawmilling operations, wood chip operations, timber harvesting operations, and manufacturing of prefabricated buildings, paper, furniture or other goods from forestry products;

(13) facilities and equipment for research and development of products, processes and equipment for the production, processing, preparation or packaging of agricultural commodities and byproducts.

(aa) The term "asset" with respect to financing of any agricultural facility or any agribusiness, means, but is not limited to the following: cash crops or feed on hand; livestock held for sale; breeding stock; marketable bonds and securities; securities not readily marketable; accounts receivable; notes

receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interests in trusts; government payments or grants; and any other assets.

(bb) The term "liability" with respect to financing of any agricultural facility or any agribusiness shall include, but not be limited to the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amounts owed on real estate contracts or real estate mortgages; judgments; accrued interest payable; and any other liability.

(cc) The term "Predecessor Authorities" means those authorities as described in Section 845-75.

(dd) The term "housing project" means a specific work or improvement undertaken to provide residential dwelling accommodations, including the acquisition, construction or rehabilitation of lands, buildings and community facilities and in connection therewith to provide nonhousing facilities which are part of the housing project, including land, buildings, improvements, equipment and all ancillary facilities for use for offices, stores, retirement homes, hotels, financial institutions, service, health care, education, recreation or research establishments, or any other commercial purpose which are or are to be related to a housing development.

(ee) The term "conservation project" means any project

including the acquisition, construction, rehabilitation, maintenance, operation, or upgrade that is intended to create or expand open space or to reduce energy usage through efficiency measures. For the purpose of this definition, "open space" has the definition set forth under Section 10 of the Illinois Open Land Trust Act.

(ff) The term "significant presence" means the existence within the State of the national or regional headquarters of an entity or group or such other facility of an entity or group of entities where a significant amount of the business functions are performed for such entity or group of entities.

(Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10; 96-1021, eff. 7-12-10.)

Section 90-40. The Illinois Health Facilities Planning Act is amended by changing Sections 3, 12, 13, and 14.1 as follows:

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

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

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

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

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

2. An institution, place, building, or agency required

to be licensed pursuant to the Hospital Licensing Act;

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

3.5. Skilled and intermediate care facilities licensed under the MR/DD Community Care Act;

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

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

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

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

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

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

minimum.

This Act shall not apply to the construction of any new facility or the renovation of any existing facility located on any campus facility as defined in Section 5-5.8b of the Illinois Public Aid Code, provided that the campus facility encompasses 30 or more contiguous acres and that the new or renovated facility is intended for use by a licensed residential facility.

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

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

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

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

This Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act. However, if a

demonstration project under that Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.

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

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

This Act does not apply to any change of ownership of a healthcare facility that is licensed under the Nursing Home

Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes. Changes of ownership of facilities licensed under the Nursing Home Care Act must meet the requirements set forth in Sections 3-101 through 3-119 of the Nursing Home Care Act.

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

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

"Consumer" means any person other than a person (a) whose major occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or financing of any type of health care facility, or (d) who is or ever has been a member of the immediate family of the person defined by (a), (b), or (c).

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

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for (i) the construction or modification of a facility licensed under the

Assisted Living and Shared Housing Act or (ii) a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under this Act.

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

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

"Capital Expenditure" means an expenditure: (A) made by or on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense

of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

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

"Capital expenditure minimum" means \$11,500,000 for projects by hospital applicants, \$6,500,000 for applicants for projects related to skilled and intermediate care long-term

care facilities licensed under the Nursing Home Care Act, and \$3,000,000 for projects by all other applicants, which shall be annually adjusted to reflect the increase in construction costs due to inflation, for major medical equipment and for all other capital expenditures.

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

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health

planning and for health service and having within it one or more local areas for health planning and health service. The term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

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

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

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

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

"Agency" means the Illinois Department of Public Health.

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

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state

facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

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

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

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

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

(Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff. 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

Sec. 12. Powers and duties of State Board. For purposes of this Act, the State Board shall exercise the following powers and duties:

(1) Prescribe rules, regulations, standards, criteria, procedures or reviews which may vary according to the purpose for which a particular review is being conducted or the type of project reviewed and which are required to carry out the provisions and purposes of this Act. Policies and procedures of the State Board shall take into consideration the priorities and needs of medically underserved areas and other health care services identified through the comprehensive health planning process, giving special consideration to the impact of projects on access to safety net services.

(2) Adopt procedures for public notice and hearing on all proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of this Act.

(3) (Blank).

(4) Develop criteria and standards for health care facilities planning, conduct statewide inventories of health

care facilities, maintain an updated inventory on the Board's web site reflecting the most recent bed and service changes and updated need determinations when new census data become available or new need formulae are adopted, and develop health care facility plans which shall be utilized in the review of applications for permit under this Act. Such health facility plans shall be coordinated by the Board with pertinent State Plans. Inventories pursuant to this Section of skilled or intermediate care facilities licensed under the Nursing Home Care Act, skilled or intermediate care facilities licensed under the MR/DD Community Care Act, facilities licensed under the Specialized Mental Health Rehabilitation Act, or nursing homes licensed under the Hospital Licensing Act shall be conducted on an annual basis no later than July 1 of each year and shall include among the information requested a list of all services provided by a facility to its residents and to the community at large and differentiate between active and inactive beds.

In developing health care facility plans, the State Board shall consider, but shall not be limited to, the following:

- (a) The size, composition and growth of the population of the area to be served;
- (b) The number of existing and planned facilities offering similar programs;
- (c) The extent of utilization of existing facilities;
- (d) The availability of facilities which may serve as

alternatives or substitutes;

(e) The availability of personnel necessary to the operation of the facility;

(f) Multi-institutional planning and the establishment of multi-institutional systems where feasible;

(g) The financial and economic feasibility of proposed construction or modification; and

(h) In the case of health care facilities established by a religious body or denomination, the needs of the members of such religious body or denomination may be considered to be public need.

The health care facility plans which are developed and adopted in accordance with this Section shall form the basis for the plan of the State to deal most effectively with statewide health needs in regard to health care facilities.

(5) Coordinate with the Center for Comprehensive Health Planning and other state agencies having responsibilities affecting health care facilities, including those of licensure and cost reporting.

(6) Solicit, accept, hold and administer on behalf of the State any grants or bequests of money, securities or property for use by the State Board or Center for Comprehensive Health Planning in the administration of this Act; and enter into contracts consistent with the appropriations for purposes enumerated in this Act.

(7) The State Board shall prescribe procedures for review,

standards, and criteria which shall be utilized to make periodic reviews and determinations of the appropriateness of any existing health services being rendered by health care facilities subject to the Act. The State Board shall consider recommendations of the Board in making its determinations.

(8) Prescribe, in consultation with the Center for Comprehensive Health Planning, rules, regulations, standards, and criteria for the conduct of an expeditious review of applications for permits for projects of construction or modification of a health care facility, which projects are classified as emergency, substantive, or non-substantive in nature.

Six months after June 30, 2009 (the effective date of Public Act 96-31), substantive projects shall include no more than the following:

(a) Projects to construct (1) a new or replacement facility located on a new site or (2) a replacement facility located on the same site as the original facility and the cost of the replacement facility exceeds the capital expenditure minimum;

(b) Projects proposing a (1) new service or (2) discontinuation of a service, which shall be reviewed by the Board within 60 days; or

(c) Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various

categories of service or by a relocation of beds from one physical facility or site to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board, whichever is less, over a 2-year period.

The Chairman may approve applications for exemption that meet the criteria set forth in rules or refer them to the full Board. The Chairman may approve any unopposed application that meets all of the review criteria or refer them to the full Board.

Such rules shall not abridge the right of the Center for Comprehensive Health Planning to make recommendations on the classification and approval of projects, nor shall such rules prevent the conduct of a public hearing upon the timely request of an interested party. Such reviews shall not exceed 60 days from the date the application is declared to be complete.

(9) Prescribe rules, regulations, standards, and criteria pertaining to the granting of permits for construction and modifications which are emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined in the rules and regulations of the State Board. This procedure is exempt from public hearing requirements of this Act.

(10) Prescribe rules, regulations, standards and criteria for the conduct of an expeditious review, not exceeding 60 days, of applications for permits for projects to construct or

modify health care facilities which are needed for the care and treatment of persons who have acquired immunodeficiency syndrome (AIDS) or related conditions.

(11) Issue written decisions upon request of the applicant or an adversely affected party to the Board within 30 days of the meeting in which a final decision has been made. A "final decision" for purposes of this Act is the decision to approve or deny an application, or take other actions permitted under this Act, at the time and date of the meeting that such action is scheduled by the Board. The staff of the State Board shall prepare a written copy of the final decision and the State Board shall approve a final copy for inclusion in the formal record.

(12) Require at least one of its members to participate in any public hearing, after the appointment of the 9 members to the Board.

(13) Provide a mechanism for the public to comment on, and request changes to, draft rules and standards.

(14) Implement public information campaigns to regularly inform the general public about the opportunity for public hearings and public hearing procedures.

(15) Establish a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the

continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by September 1, 2010. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of this Act prior to approval by the Board and promulgation of related rules.

(Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

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

Sec. 13. Investigation of applications for permits and certificates of recognition. The Agency or the State Board shall make or cause to be made such investigations as it or the State Board deems necessary in connection with an application for a permit or an application for a certificate of recognition, or in connection with a determination of whether or not construction or modification which has been commenced is in accord with the permit issued by the State Board or whether construction or modification has been commenced without a permit having been obtained. The State Board may issue subpoenas duces tecum requiring the production of records and may administer oaths to such witnesses.

Any circuit court of this State, upon the application of the State Board or upon the application of any party to such proceedings, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before the State Board, by a proceeding as for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

The State Board shall require all health facilities operating in this State to provide such reasonable reports at such times and containing such information as is needed by it

to carry out the purposes and provisions of this Act. Prior to collecting information from health facilities, the State Board shall make reasonable efforts through a public process to consult with health facilities and associations that represent them to determine whether data and information requests will result in useful information for health planning, whether sufficient information is available from other sources, and whether data requested is routinely collected by health facilities and is available without retrospective record review. Data and information requests shall not impose undue paperwork burdens on health care facilities and personnel. Health facilities not complying with this requirement shall be reported to licensing, accrediting, certifying, or payment agencies as being in violation of State law. Health care facilities and other parties at interest shall have reasonable access, under rules established by the State Board, to all planning information submitted in accord with this Act pertaining to their area.

Among the reports to be required by the State Board are facility questionnaires for health care facilities licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, the Nursing Home Care Act, the MR/DD Community Care Act, the Specialized Mental Health Rehabilitation Act, or the End Stage Renal Disease Facility Act. These questionnaires shall be conducted on an annual basis and compiled by the Agency. For health care facilities licensed

under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, these reports shall include, but not be limited to, the identification of specialty services provided by the facility to patients, residents, and the community at large. For health care facilities that contain long term care beds, the reports shall also include the number of staffed long term care beds, physical capacity for long term care beds at the facility, and long term care beds available for immediate occupancy. For purposes of this paragraph, "long term care beds" means beds (i) licensed under the Nursing Home Care Act, (ii) licensed under the MR/DD Community Care Act, ~~or~~ (iii) licensed under the Hospital Licensing Act, or (iv) licensed under the Specialized Mental Health Rehabilitation Act and certified as skilled nursing or nursing facility beds under Medicaid or Medicare.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 3960/14.1)

Sec. 14.1. Denial of permit; other sanctions.

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

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

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

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

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

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

(a-5) For facilities licensed under the MR/DD Community Care Act, no permit shall be denied on the basis of prior operator history, other than for actions specified under item (2), (4), or (5) of Section 3-117 of the MR/DD Community Care Act. For facilities licensed under the Specialized Mental Health Rehabilitation Act, no permit shall be denied on the basis of prior operator history, other than for actions specified under item (2), (4), or (5) of Section 3-117 of the Specialized Mental Health Rehabilitation Act. For facilities licensed under the Nursing Home Care Act, no permit shall be denied on the basis of prior operator history, other than for: (i) actions specified under item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing Home Care Act; (ii) actions specified under item (a)(6) of Section 3-119 of the Nursing Home Care Act; or (iii) actions within the preceding 5 years

constituting a substantial and repeated failure to comply with the Nursing Home Care Act or the rules and regulations adopted by the Department under that Act. The State Board shall not deny a permit on account of any action described in this subsection (a-5) without also considering all such actions in the light of all relevant information available to the State Board, including whether the permit is sought to substantially comply with a mandatory or voluntary plan of correction associated with any action described in this subsection (a-5).

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

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

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

(3) A person who acquires major medical equipment or

who establishes a category of service without first obtaining a permit or exemption, as the case may be, shall be fined an amount not to exceed \$10,000 for each such acquisition or category of service established plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues.

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

(5) A person who discontinues a health care facility or a category of service without first obtaining a permit shall be fined an amount not to exceed \$10,000 plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. For purposes of this subparagraph (5), facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act must comply with Section 3-423 of the Nursing Home Care Act or Section 3-423 of the MR/DD Community Care Act and must provide the Board with 30-days' written notice of its intent to close.

(6) A person subject to this Act who fails to provide

information requested by the State Board or Agency within 30 days of a formal written request shall be fined an amount not to exceed \$1,000 plus an additional \$1,000 for each 30-day period, or fraction thereof, that the information is not received by the State Board or Agency.

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

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

(Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

Section 90-45. The Illinois Income Tax Act is amended by changing Section 806 as follows:

(35 ILCS 5/806)

Sec. 806. Exemption from penalty. An individual taxpayer shall not be subject to a penalty for failing to pay estimated tax as required by Section 803 if the taxpayer is 65 years of age or older and is a permanent resident of a nursing home. For purposes of this Section, "nursing home" means a skilled

nursing or intermediate long term care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-50. The Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 105/3-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is

organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Personal property purchased by a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or by a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

(5) Until July 1, 2003, a passenger car that is a

replacement vehicle to the extent that the purchase price of the car is subject to the Replacement Vehicle Tax.

(6) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(7) Farm chemicals.

(8) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(9) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(10) A motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van

configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(11) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (11). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be

installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (11) is exempt from the provisions of Section 3-90.

(12) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(13) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the

employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(14) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(15) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(16) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(17) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the

production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(19) Personal property delivered to a purchaser or purchaser's donee inside Illinois when the purchase order for that personal property was received by a florist located outside Illinois who has a florist located inside Illinois deliver the personal property.

(20) Semen used for artificial insemination of livestock for direct agricultural production.

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or

racing for prizes. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

(22) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor.

If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(24) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for

disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(25) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-90.

(27) A motor vehicle, as that term is defined in Section

1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(28) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising

entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90.

(30) Beginning January 1, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined

in the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act.

(31) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of

Section 3-90.

(32) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division

with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(34) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-90.

(35) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or

upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(36) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is

transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-90.

(Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 90-55. The Service Use Tax Act is amended by changing Sections 3-5 and 3-10 as follows:

(35 ILCS 110/3-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the

purpose of resale by the enterprise.

(2) Personal property purchased by a non-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and

used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor

vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-75.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately

stated on customers' bills for the purchase and consumption of food and beverages acquired as an incident to the purchase of a service from a serviceman, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Proceeds from the sale of photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and

including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(13) Semen used for artificial insemination of livestock for direct agricultural production.

(14) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after the effective date of this amendatory Act of the 95th General Assembly for such taxes paid during the period beginning May 30, 2000 and ending on the effective date of this amendatory Act of the 95th General Assembly.

(15) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the

Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(16) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt

to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(17) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and

sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(19) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-75.

(20) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to

follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(21) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-75.

(22) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-75.

(23) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may

be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the

Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(26) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-75.

(27) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not

limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(28) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-75.

(Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,

eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the selling price of tangible personal property transferred as an incident to the sale of service, but, for the purpose of computing this tax, in no event shall the selling price be less than the cost price of the property to the serviceman.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act applies to (i) 70% of the selling price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013, and (iii) 100% of the selling price thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 and (ii) 100% of the proceeds of the selling price thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

At the election of any registered serviceman made for each

fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred as an incident to the sale of those services.

The tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the MR/DD Community Care Act, the Specialized Mental Health Rehabilitation Act, or the Child Care Act of 1969. The tax shall also be imposed at the rate of 1% on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption and is not otherwise included in this paragraph) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished,

ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food

products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

- (A) A "Drug Facts" panel; or
- (B) A statement of the "active ingredient(s)" with a

list of those ingredients contained in the compound, substance or preparation.

If the property that is acquired from a serviceman is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is taxable under this Act, the "selling price" on which the tax is computed shall be reduced by an amount that represents a reasonable allowance for depreciation for the period of prior out-of-state use.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38, eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 90-60. The Service Occupation Tax Act is amended by changing Sections 3-5 and 3-10 as follows:

(35 ILCS 115/3-5)

Sec. 3-5. Exemptions. The following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit

Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by any not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used

primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-55.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages, to the extent that the proceeds of the

service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(13) Beginning January 1, 1992 and through June 30, 2011,

food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act.

(14) Semen used for artificial insemination of livestock for direct agricultural production.

(15) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (15) is exempt from the provisions of Section 3-55, and the exemption provided for under this item (15) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(16) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(17) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(19) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or

before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(20) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-55.

(21) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful

branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(22) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-55.

(23) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning

January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-55.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(26) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois

retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (26). The permit issued under this paragraph (26) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(27) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under

Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-55.

(28) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-55.

(29) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such

engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the "selling price", as defined in Section 2 of the Service Use Tax Act, of the tangible personal property. For the purpose of computing this tax, in no event shall the "selling price" be less than the cost price to the serviceman of the tangible personal property transferred. The selling price of each item

of tangible personal property transferred as an incident of a sale of service may be shown as a distinct and separate item on the serviceman's billing to the service customer. If the selling price is not so shown, the selling price of the tangible personal property is deemed to be 50% of the serviceman's entire billing to the service customer. When, however, a serviceman contracts to design, develop, and produce special order machinery or equipment, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the completion of the contract.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act shall apply to (i) 70% of the cost price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013, and (iii) 100% of the cost price thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 and (ii) 100% of the proceeds of the selling price thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel material, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the sale of those services.

The tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the MR/DD Community Care Act, the Specialized Mental Health Rehabilitation Act, or the Child Care Act of 1969. The tax shall also be imposed at the rate of 1% on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption and is not otherwise included in this paragraph) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purposes of this Section, until September 1,

2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold

through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

- (A) A "Drug Facts" panel; or

(B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38, eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 90-65. The Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5)

Sec. 2-5. Exemptions. Gross receipts from proceeds from the sale of the following tangible personal property are exempt from the tax imposed by this Act:

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or

hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 2-70.

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the

production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) A motor vehicle of the first division, a motor vehicle of the second division that is a self contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school

located in Illinois.

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair association for use in conducting, operating, or promoting the county fair.

(9) Personal property sold to a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(10) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit

of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(11) Personal property sold to a governmental body, to a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or to a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active identification number issued by the Department.

(12) Tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(14) Machinery and equipment that will be used by the

purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(15) Proceeds of mandatory service charges separately stated on customers' bills for purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(16) Petroleum products sold to a purchaser if the seller is prohibited by federal law from charging tax to the purchaser.

(17) Tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading

showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

(18) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(19) Until July 1 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(20) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(21) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle

Code.

(22) Fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(23) A transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois.

(24) Fuel consumed or used in the operation of ships, barges, or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the

out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser

titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(25-7) Beginning on July 1, 2007, no tax is imposed under this Act on the sale of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

(1) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 C.F.R. 91.407;

(2) the aircraft is not based or registered in this State after the sale of the aircraft; and

(3) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this item (25-7) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may

reasonably require.

For purposes of this item (25-7):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This paragraph (25-7) is exempt from the provisions of Section 2-70.

(26) Semen used for artificial insemination of livestock for direct agricultural production.

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(29) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(30) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(31) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the

performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 2-70.

(33) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and

that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts

for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the

provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase

tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(39) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 2-70.

(40) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective

films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(41) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 2-70.

(Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff.

7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 90-70. The Property Tax Code is amended by changing Sections 15-168, 15-170, and 15-172 as follows:

(35 ILCS 200/15-168)

Sec. 15-168. Disabled persons' homestead exemption.

(a) Beginning with taxable year 2007, an annual homestead exemption is granted to disabled persons in the amount of \$2,000, except as provided in subsection (c), to be deducted from the property's value as equalized or assessed by the Department of Revenue. The disabled person shall receive the homestead exemption upon meeting the following requirements:

(1) The property must be occupied as the primary residence by the disabled person.

(2) The disabled person must be liable for paying the real estate taxes on the property.

(3) The disabled person must be an owner of record of the property or have a legal or equitable interest in the property as evidenced by a written instrument. In the case of a leasehold interest in property, the lease must be for a single family residence.

A person who is disabled during the taxable year is eligible to apply for this homestead exemption during that taxable year. Application must be made during the application

period in effect for the county of residence. If a homestead exemption has been granted under this Section and the person awarded the exemption subsequently becomes a resident of a facility licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, then the exemption shall continue (i) so long as the residence continues to be occupied by the qualifying person's spouse or (ii) if the residence remains unoccupied but is still owned by the person qualified for the homestead exemption.

(b) For the purposes of this Section, "disabled person" means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. Disabled persons filing claims under this Act shall submit proof of disability in such form and manner as the Department shall by rule and regulation prescribe. Proof that a claimant is eligible to receive disability benefits under the Federal Social Security Act shall constitute proof of disability for purposes of this Act. Issuance of an Illinois Disabled Person Identification Card stating that the claimant is under a Class 2 disability, as defined in Section 4A of The Illinois Identification Card Act, shall constitute proof that the person named thereon is a disabled person for purposes of this Act. A disabled person not

covered under the Federal Social Security Act and not presenting a Disabled Person Identification Card stating that the claimant is under a Class 2 disability shall be examined by a physician designated by the Department, and his status as a disabled person determined using the same standards as used by the Social Security Administration. The costs of any required examination shall be borne by the claimant.

(c) For land improved with (i) an apartment building owned and operated as a cooperative or (ii) a life care facility as defined under Section 2 of the Life Care Facilities Act that is considered to be a cooperative, the maximum reduction from the value of the property, as equalized or assessed by the Department, shall be multiplied by the number of apartments or units occupied by a disabled person. The disabled person shall receive the homestead exemption upon meeting the following requirements:

(1) The property must be occupied as the primary residence by the disabled person.

(2) The disabled person must be liable by contract with the owner or owners of record for paying the apportioned property taxes on the property of the cooperative or life care facility. In the case of a life care facility, the disabled person must be liable for paying the apportioned property taxes under a life care contract as defined in Section 2 of the Life Care Facilities Act.

(3) The disabled person must be an owner of record of a

legal or equitable interest in the cooperative apartment building. A leasehold interest does not meet this requirement.

If a homestead exemption is granted under this subsection, the cooperative association or management firm shall credit the savings resulting from the exemption to the apportioned tax liability of the qualifying disabled person. The chief county assessment officer may request reasonable proof that the association or firm has properly credited the exemption. A person who willfully refuses to credit an exemption to the qualified disabled person is guilty of a Class B misdemeanor.

(d) The chief county assessment officer shall determine the eligibility of property to receive the homestead exemption according to guidelines established by the Department. After a person has received an exemption under this Section, an annual verification of eligibility for the exemption shall be mailed to the taxpayer.

In counties with fewer than 3,000,000 inhabitants, the chief county assessment officer shall provide to each person granted a homestead exemption under this Section a form to designate any other person to receive a duplicate of any notice of delinquency in the payment of taxes assessed and levied under this Code on the person's qualifying property. The duplicate notice shall be in addition to the notice required to be provided to the person receiving the exemption and shall be given in the manner required by this Code. The person filing

the request for the duplicate notice shall pay an administrative fee of \$5 to the chief county assessment officer. The assessment officer shall then file the executed designation with the county collector, who shall issue the duplicate notices as indicated by the designation. A designation may be rescinded by the disabled person in the manner required by the chief county assessment officer.

(e) A taxpayer who claims an exemption under Section 15-165 or 15-169 may not claim an exemption under this Section.

(Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

(35 ILCS 200/15-170)

Sec. 15-170. Senior Citizens Homestead Exemption. An annual homestead exemption limited, except as described here with relation to cooperatives or life care facilities, to a maximum reduction set forth below from the property's value, as equalized or assessed by the Department, is granted for property that is occupied as a residence by a person 65 years of age or older who is liable for paying real estate taxes on the property and is an owner of record of the property or has a legal or equitable interest therein as evidenced by a written instrument, except for a leasehold interest, other than a leasehold interest of land on which a single family residence is located, which is occupied as a residence by a person 65 years or older who has an ownership interest therein, legal, equitable or as a lessee, and on which he or she is liable for

the payment of property taxes. Before taxable year 2004, the maximum reduction shall be \$2,500 in counties with 3,000,000 or more inhabitants and \$2,000 in all other counties. For taxable years 2004 through 2005, the maximum reduction shall be \$3,000 in all counties. For taxable years 2006 and 2007, the maximum reduction shall be \$3,500 and, for taxable years 2008 and thereafter, the maximum reduction is \$4,000 in all counties.

For land improved with an apartment building owned and operated as a cooperative, the maximum reduction from the value of the property, as equalized by the Department, shall be multiplied by the number of apartments or units occupied by a person 65 years of age or older who is liable, by contract with the owner or owners of record, for paying property taxes on the property and is an owner of record of a legal or equitable interest in the cooperative apartment building, other than a leasehold interest. For land improved with a life care facility, the maximum reduction from the value of the property, as equalized by the Department, shall be multiplied by the number of apartments or units occupied by persons 65 years of age or older, irrespective of any legal, equitable, or leasehold interest in the facility, who are liable, under a contract with the owner or owners of record of the facility, for paying property taxes on the property. In a cooperative or a life care facility where a homestead exemption has been granted, the cooperative association or the management firm of the cooperative or facility shall credit the savings resulting

from that exemption only to the apportioned tax liability of the owner or resident who qualified for the exemption. Any person who willfully refuses to so credit the savings shall be guilty of a Class B misdemeanor. Under this Section and Sections 15-175, 15-176, and 15-177, "life care facility" means a facility, as defined in Section 2 of the Life Care Facilities Act, with which the applicant for the homestead exemption has a life care contract as defined in that Act.

When a homestead exemption has been granted under this Section and the person qualifying subsequently becomes a resident of a facility licensed under the Assisted Living and Shared Housing Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, the exemption shall continue so long as the residence continues to be occupied by the qualifying person's spouse if the spouse is 65 years of age or older, or if the residence remains unoccupied but is still owned by the person qualified for the homestead exemption.

A person who will be 65 years of age during the current assessment year shall be eligible to apply for the homestead exemption during that assessment year. Application shall be made during the application period in effect for the county of his residence.

Beginning with assessment year 2003, for taxes payable in 2004, property that is first occupied as a residence after January 1 of any assessment year by a person who is eligible

for the senior citizens homestead exemption under this Section must be granted a pro-rata exemption for the assessment year. The amount of the pro-rata exemption is the exemption allowed in the county under this Section divided by 365 and multiplied by the number of days during the assessment year the property is occupied as a residence by a person eligible for the exemption under this Section. The chief county assessment officer must adopt reasonable procedures to establish eligibility for this pro-rata exemption.

The assessor or chief county assessment officer may determine the eligibility of a life care facility to receive the benefits provided by this Section, by affidavit, application, visual inspection, questionnaire or other reasonable methods in order to insure that the tax savings resulting from the exemption are credited by the management firm to the apportioned tax liability of each qualifying resident. The assessor may request reasonable proof that the management firm has so credited the exemption.

The chief county assessment officer of each county with less than 3,000,000 inhabitants shall provide to each person allowed a homestead exemption under this Section a form to designate any other person to receive a duplicate of any notice of delinquency in the payment of taxes assessed and levied under this Code on the property of the person receiving the exemption. The duplicate notice shall be in addition to the notice required to be provided to the person receiving the

exemption, and shall be given in the manner required by this Code. The person filing the request for the duplicate notice shall pay a fee of \$5 to cover administrative costs to the supervisor of assessments, who shall then file the executed designation with the county collector. Notwithstanding any other provision of this Code to the contrary, the filing of such an executed designation requires the county collector to provide duplicate notices as indicated by the designation. A designation may be rescinded by the person who executed such designation at any time, in the manner and form required by the chief county assessment officer.

The assessor or chief county assessment officer may determine the eligibility of residential property to receive the homestead exemption provided by this Section by application, visual inspection, questionnaire or other reasonable methods. The determination shall be made in accordance with guidelines established by the Department.

In counties with 3,000,000 or more inhabitants, beginning in taxable year 2010, each taxpayer who has been granted an exemption under this Section must reapply on an annual basis. The chief county assessment officer shall mail the application to the taxpayer. In counties with less than 3,000,000 inhabitants, the county board may by resolution provide that if a person has been granted a homestead exemption under this Section, the person qualifying need not reapply for the exemption.

In counties with less than 3,000,000 inhabitants, if the assessor or chief county assessment officer requires annual application for verification of eligibility for an exemption once granted under this Section, the application shall be mailed to the taxpayer.

The assessor or chief county assessment officer shall notify each person who qualifies for an exemption under this Section that the person may also qualify for deferral of real estate taxes under the Senior Citizens Real Estate Tax Deferral Act. The notice shall set forth the qualifications needed for deferral of real estate taxes, the address and telephone number of county collector, and a statement that applications for deferral of real estate taxes may be obtained from the county collector.

Notwithstanding Sections 6 and 8 of the State Mandates Act, no reimbursement by the State is required for the implementation of any mandate created by this Section.

(Source: P.A. 95-644, eff. 10-12-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1418, eff. 8-2-10.)

(35 ILCS 200/15-172)

Sec. 15-172. Senior Citizens Assessment Freeze Homestead Exemption.

(a) This Section may be cited as the Senior Citizens Assessment Freeze Homestead Exemption.

(b) As used in this Section:

"Applicant" means an individual who has filed an application under this Section.

"Base amount" means the base year equalized assessed value of the residence plus the first year's equalized assessed value of any added improvements which increased the assessed value of the residence after the base year.

"Base year" means the taxable year prior to the taxable year for which the applicant first qualifies and applies for the exemption provided that in the prior taxable year the property was improved with a permanent structure that was occupied as a residence by the applicant who was liable for paying real property taxes on the property and who was either (i) an owner of record of the property or had legal or equitable interest in the property as evidenced by a written instrument or (ii) had a legal or equitable interest as a lessee in the parcel of property that was single family residence. If in any subsequent taxable year for which the applicant applies and qualifies for the exemption the equalized assessed value of the residence is less than the equalized assessed value in the existing base year (provided that such equalized assessed value is not based on an assessed value that results from a temporary irregularity in the property that reduces the assessed value for one or more taxable years), then that subsequent taxable year shall become the base year until a new base year is established under the terms of this paragraph.

For taxable year 1999 only, the Chief County Assessment Officer shall review (i) all taxable years for which the applicant applied and qualified for the exemption and (ii) the existing base year. The assessment officer shall select as the new base year the year with the lowest equalized assessed value. An equalized assessed value that is based on an assessed value that results from a temporary irregularity in the property that reduces the assessed value for one or more taxable years shall not be considered the lowest equalized assessed value. The selected year shall be the base year for taxable year 1999 and thereafter until a new base year is established under the terms of this paragraph.

"Chief County Assessment Officer" means the County Assessor or Supervisor of Assessments of the county in which the property is located.

"Equalized assessed value" means the assessed value as equalized by the Illinois Department of Revenue.

"Household" means the applicant, the spouse of the applicant, and all persons using the residence of the applicant as their principal place of residence.

"Household income" means the combined income of the members of a household for the calendar year preceding the taxable year.

"Income" has the same meaning as provided in Section 3.07 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, except that, beginning in

assessment year 2001, "income" does not include veteran's benefits.

"Internal Revenue Code of 1986" means the United States Internal Revenue Code of 1986 or any successor law or laws relating to federal income taxes in effect for the year preceding the taxable year.

"Life care facility that qualifies as a cooperative" means a facility as defined in Section 2 of the Life Care Facilities Act.

"Maximum income limitation" means:

- (1) \$35,000 prior to taxable year 1999;
- (2) \$40,000 in taxable years 1999 through 2003;
- (3) \$45,000 in taxable years 2004 through 2005;
- (4) \$50,000 in taxable years 2006 and 2007; and
- (5) \$55,000 in taxable year 2008 and thereafter.

"Residence" means the principal dwelling place and appurtenant structures used for residential purposes in this State occupied on January 1 of the taxable year by a household and so much of the surrounding land, constituting the parcel upon which the dwelling place is situated, as is used for residential purposes. If the Chief County Assessment Officer has established a specific legal description for a portion of property constituting the residence, then that portion of property shall be deemed the residence for the purposes of this Section.

"Taxable year" means the calendar year during which ad

valorem property taxes payable in the next succeeding year are levied.

(c) Beginning in taxable year 1994, a senior citizens assessment freeze homestead exemption is granted for real property that is improved with a permanent structure that is occupied as a residence by an applicant who (i) is 65 years of age or older during the taxable year, (ii) has a household income that does not exceed the maximum income limitation, (iii) is liable for paying real property taxes on the property, and (iv) is an owner of record of the property or has a legal or equitable interest in the property as evidenced by a written instrument. This homestead exemption shall also apply to a leasehold interest in a parcel of property improved with a permanent structure that is a single family residence that is occupied as a residence by a person who (i) is 65 years of age or older during the taxable year, (ii) has a household income that does not exceed the maximum income limitation, (iii) has a legal or equitable ownership interest in the property as lessee, and (iv) is liable for the payment of real property taxes on that property.

In counties of 3,000,000 or more inhabitants, the amount of the exemption for all taxable years is the equalized assessed value of the residence in the taxable year for which application is made minus the base amount. In all other counties, the amount of the exemption is as follows: (i) through taxable year 2005 and for taxable year 2007 and

thereafter, the amount of this exemption shall be the equalized assessed value of the residence in the taxable year for which application is made minus the base amount; and (ii) for taxable year 2006, the amount of the exemption is as follows:

(1) For an applicant who has a household income of \$45,000 or less, the amount of the exemption is the equalized assessed value of the residence in the taxable year for which application is made minus the base amount.

(2) For an applicant who has a household income exceeding \$45,000 but not exceeding \$46,250, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.8.

(3) For an applicant who has a household income exceeding \$46,250 but not exceeding \$47,500, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.6.

(4) For an applicant who has a household income exceeding \$47,500 but not exceeding \$48,750, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.4.

(5) For an applicant who has a household income exceeding \$48,750 but not exceeding \$50,000, the amount of the exemption is (i) the equalized assessed value of the

residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.2.

When the applicant is a surviving spouse of an applicant for a prior year for the same residence for which an exemption under this Section has been granted, the base year and base amount for that residence are the same as for the applicant for the prior year.

Each year at the time the assessment books are certified to the County Clerk, the Board of Review or Board of Appeals shall give to the County Clerk a list of the assessed values of improvements on each parcel qualifying for this exemption that were added after the base year for this parcel and that increased the assessed value of the property.

In the case of land improved with an apartment building owned and operated as a cooperative or a building that is a life care facility that qualifies as a cooperative, the maximum reduction from the equalized assessed value of the property is limited to the sum of the reductions calculated for each unit occupied as a residence by a person or persons (i) 65 years of age or older, (ii) with a household income that does not exceed the maximum income limitation, (iii) who is liable, by contract with the owner or owners of record, for paying real property taxes on the property, and (iv) who is an owner of record of a legal or equitable interest in the cooperative apartment building, other than a leasehold interest. In the instance of a cooperative where a homestead exemption has been granted under

this Section, the cooperative association or its management firm shall credit the savings resulting from that exemption only to the apportioned tax liability of the owner who qualified for the exemption. Any person who willfully refuses to credit that savings to an owner who qualifies for the exemption is guilty of a Class B misdemeanor.

When a homestead exemption has been granted under this Section and an applicant then becomes a resident of a facility licensed under the Assisted Living and Shared Housing Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, the exemption shall be granted in subsequent years so long as the residence (i) continues to be occupied by the qualified applicant's spouse or (ii) if remaining unoccupied, is still owned by the qualified applicant for the homestead exemption.

Beginning January 1, 1997, when an individual dies who would have qualified for an exemption under this Section, and the surviving spouse does not independently qualify for this exemption because of age, the exemption under this Section shall be granted to the surviving spouse for the taxable year preceding and the taxable year of the death, provided that, except for age, the surviving spouse meets all other qualifications for the granting of this exemption for those years.

When married persons maintain separate residences, the exemption provided for in this Section may be claimed by only

one of such persons and for only one residence.

For taxable year 1994 only, in counties having less than 3,000,000 inhabitants, to receive the exemption, a person shall submit an application by February 15, 1995 to the Chief County Assessment Officer of the county in which the property is located. In counties having 3,000,000 or more inhabitants, for taxable year 1994 and all subsequent taxable years, to receive the exemption, a person may submit an application to the Chief County Assessment Officer of the county in which the property is located during such period as may be specified by the Chief County Assessment Officer. The Chief County Assessment Officer in counties of 3,000,000 or more inhabitants shall annually give notice of the application period by mail or by publication. In counties having less than 3,000,000 inhabitants, beginning with taxable year 1995 and thereafter, to receive the exemption, a person shall submit an application by July 1 of each taxable year to the Chief County Assessment Officer of the county in which the property is located. A county may, by ordinance, establish a date for submission of applications that is different than July 1. The applicant shall submit with the application an affidavit of the applicant's total household income, age, marital status (and if married the name and address of the applicant's spouse, if known), and principal dwelling place of members of the household on January 1 of the taxable year. The Department shall establish, by rule, a method for verifying the accuracy of affidavits filed by

applicants under this Section, and the Chief County Assessment Officer may conduct audits of any taxpayer claiming an exemption under this Section to verify that the taxpayer is eligible to receive the exemption. Each application shall contain or be verified by a written declaration that it is made under the penalties of perjury. A taxpayer's signing a fraudulent application under this Act is perjury, as defined in Section 32-2 of the Criminal Code of 1961. The applications shall be clearly marked as applications for the Senior Citizens Assessment Freeze Homestead Exemption and must contain a notice that any taxpayer who receives the exemption is subject to an audit by the Chief County Assessment Officer.

Notwithstanding any other provision to the contrary, in counties having fewer than 3,000,000 inhabitants, if an applicant fails to file the application required by this Section in a timely manner and this failure to file is due to a mental or physical condition sufficiently severe so as to render the applicant incapable of filing the application in a timely manner, the Chief County Assessment Officer may extend the filing deadline for a period of 30 days after the applicant regains the capability to file the application, but in no case may the filing deadline be extended beyond 3 months of the original filing deadline. In order to receive the extension provided in this paragraph, the applicant shall provide the Chief County Assessment Officer with a signed statement from the applicant's physician stating the nature and extent of the

condition, that, in the physician's opinion, the condition was so severe that it rendered the applicant incapable of filing the application in a timely manner, and the date on which the applicant regained the capability to file the application.

Beginning January 1, 1998, notwithstanding any other provision to the contrary, in counties having fewer than 3,000,000 inhabitants, if an applicant fails to file the application required by this Section in a timely manner and this failure to file is due to a mental or physical condition sufficiently severe so as to render the applicant incapable of filing the application in a timely manner, the Chief County Assessment Officer may extend the filing deadline for a period of 3 months. In order to receive the extension provided in this paragraph, the applicant shall provide the Chief County Assessment Officer with a signed statement from the applicant's physician stating the nature and extent of the condition, and that, in the physician's opinion, the condition was so severe that it rendered the applicant incapable of filing the application in a timely manner.

In counties having less than 3,000,000 inhabitants, if an applicant was denied an exemption in taxable year 1994 and the denial occurred due to an error on the part of an assessment official, or his or her agent or employee, then beginning in taxable year 1997 the applicant's base year, for purposes of determining the amount of the exemption, shall be 1993 rather than 1994. In addition, in taxable year 1997, the applicant's

exemption shall also include an amount equal to (i) the amount of any exemption denied to the applicant in taxable year 1995 as a result of using 1994, rather than 1993, as the base year, (ii) the amount of any exemption denied to the applicant in taxable year 1996 as a result of using 1994, rather than 1993, as the base year, and (iii) the amount of the exemption erroneously denied for taxable year 1994.

For purposes of this Section, a person who will be 65 years of age during the current taxable year shall be eligible to apply for the homestead exemption during that taxable year. Application shall be made during the application period in effect for the county of his or her residence.

The Chief County Assessment Officer may determine the eligibility of a life care facility that qualifies as a cooperative to receive the benefits provided by this Section by use of an affidavit, application, visual inspection, questionnaire, or other reasonable method in order to insure that the tax savings resulting from the exemption are credited by the management firm to the apportioned tax liability of each qualifying resident. The Chief County Assessment Officer may request reasonable proof that the management firm has so credited that exemption.

Except as provided in this Section, all information received by the chief county assessment officer or the Department from applications filed under this Section, or from any investigation conducted under the provisions of this

Section, shall be confidential, except for official purposes or pursuant to official procedures for collection of any State or local tax or enforcement of any civil or criminal penalty or sanction imposed by this Act or by any statute or ordinance imposing a State or local tax. Any person who divulges any such information in any manner, except in accordance with a proper judicial order, is guilty of a Class A misdemeanor.

Nothing contained in this Section shall prevent the Director or chief county assessment officer from publishing or making available reasonable statistics concerning the operation of the exemption contained in this Section in which the contents of claims are grouped into aggregates in such a way that information contained in any individual claim shall not be disclosed.

(d) Each Chief County Assessment Officer shall annually publish a notice of availability of the exemption provided under this Section. The notice shall be published at least 60 days but no more than 75 days prior to the date on which the application must be submitted to the Chief County Assessment Officer of the county in which the property is located. The notice shall appear in a newspaper of general circulation in the county.

Notwithstanding Sections 6 and 8 of the State Mandates Act, no reimbursement by the State is required for the implementation of any mandate created by this Section.

(Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10;

96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 90-75. The Regional Transportation Authority Act is amended by changing Section 4.03 as follows:

(70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

Sec. 4.03. Taxes.

(a) In order to carry out any of the powers or purposes of the Authority, the Board may by ordinance adopted with the concurrence of 12 of the then Directors, impose throughout the metropolitan region any or all of the taxes provided in this Section. Except as otherwise provided in this Act, taxes imposed under this Section and civil penalties imposed incident thereto shall be collected and enforced by the State Department of Revenue. The Department shall have the power to administer and enforce the taxes and to determine all rights for refunds for erroneous payments of the taxes. Nothing in this amendatory Act of the 95th General Assembly is intended to invalidate any taxes currently imposed by the Authority. The increased vote requirements to impose a tax shall only apply to actions taken after the effective date of this amendatory Act of the 95th General Assembly.

(b) The Board may impose a public transportation tax upon all persons engaged in the metropolitan region in the business of selling at retail motor fuel for operation of motor vehicles upon public highways. The tax shall be at a rate not to exceed

5% of the gross receipts from the sales of motor fuel in the course of the business. As used in this Act, the term "motor fuel" shall have the same meaning as in the Motor Fuel Tax Law. The Board may provide for details of the tax. The provisions of any tax shall conform, as closely as may be practicable, to the provisions of the Municipal Retailers Occupation Tax Act, including without limitation, conformity to penalties with respect to the tax imposed and as to the powers of the State Department of Revenue to promulgate and enforce rules and regulations relating to the administration and enforcement of the provisions of the tax imposed, except that reference in the Act to any municipality shall refer to the Authority and the tax shall be imposed only with regard to receipts from sales of motor fuel in the metropolitan region, at rates as limited by this Section.

(c) In connection with the tax imposed under paragraph (b) of this Section the Board may impose a tax upon the privilege of using in the metropolitan region motor fuel for the operation of a motor vehicle upon public highways, the tax to be at a rate not in excess of the rate of tax imposed under paragraph (b) of this Section. The Board may provide for details of the tax.

(d) The Board may impose a motor vehicle parking tax upon the privilege of parking motor vehicles at off-street parking facilities in the metropolitan region at which a fee is charged, and may provide for reasonable classifications in and

exemptions to the tax, for administration and enforcement thereof and for civil penalties and refunds thereunder and may provide criminal penalties thereunder, the maximum penalties not to exceed the maximum criminal penalties provided in the Retailers' Occupation Tax Act. The Authority may collect and enforce the tax itself or by contract with any unit of local government. The State Department of Revenue shall have no responsibility for the collection and enforcement unless the Department agrees with the Authority to undertake the collection and enforcement. As used in this paragraph, the term "parking facility" means a parking area or structure having parking spaces for more than 2 vehicles at which motor vehicles are permitted to park in return for an hourly, daily, or other periodic fee, whether publicly or privately owned, but does not include parking spaces on a public street, the use of which is regulated by parking meters.

(e) The Board may impose a Regional Transportation Authority Retailers' Occupation Tax upon all persons engaged in the business of selling tangible personal property at retail in the metropolitan region. In Cook County the tax rate shall be 1.25% of the gross receipts from sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by

diabetics, and 1% of the gross receipts from other taxable sales made in the course of that business. In DuPage, Kane, Lake, McHenry, and Will Counties, the tax rate shall be 0.75% of the gross receipts from all taxable sales made in the course of that business. The tax imposed under this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their seller's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination in a single amount with State taxes that sellers are required to collect under the Use Tax Act, under any bracket schedules the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

If a tax is imposed under this subsection (e), a tax shall also be imposed under subsections (f) and (g) of this Section.

For the purpose of determining whether a tax authorized under this Section is applicable, a retail sale by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the Federal Constitution as a sale in interstate or foreign commerce.

No tax shall be imposed or collected under this subsection on the sale of a motor vehicle in this State to a resident of another state if that motor vehicle will not be titled in this State.

Nothing in this Section shall be construed to authorize the Regional Transportation Authority to impose a tax upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by this State.

(f) If a tax has been imposed under paragraph (e), a Regional Transportation Authority Service Occupation Tax shall also be imposed upon all persons engaged, in the metropolitan region in the business of making sales of service, who as an incident to making the sales of service, transfer tangible personal property within the metropolitan region, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. In Cook County, the tax rate shall be: (1) 1.25% of the serviceman's cost price of food prepared for immediate consumption and transferred incident to a sale of service subject to the service occupation tax by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act that is located in the metropolitan region; (2) 1.25% of the selling price of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages,

soft drinks and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics; and (3) 1% of the selling price from other taxable sales of tangible personal property transferred. In DuPage, Kane, Lake, McHenry and Will Counties the rate shall be 0.75% of the selling price of all tangible personal property transferred.

The tax imposed under this paragraph and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this paragraph; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the Authority), 5, 7, 8 (except that the

jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the Authority), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this tax may not be taken against any State tax), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the Authority), the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this paragraph may reimburse themselves for their serviceman's tax liability hereunder by separately stating the tax as an additional charge, that charge may be stated in combination in a single amount with State tax that servicemen are authorized to collect under the Service Use Tax Act, under any bracket schedules the Department may prescribe.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

Nothing in this paragraph shall be construed to authorize the Authority to impose a tax upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by the State.

(g) If a tax has been imposed under paragraph (e), a tax shall also be imposed upon the privilege of using in the metropolitan region, any item of tangible personal property that is purchased outside the metropolitan region at retail from a retailer, and that is titled or registered with an agency of this State's government. In Cook County the tax rate shall be 1% of the selling price of the tangible personal property, as "selling price" is defined in the Use Tax Act. In DuPage, Kane, Lake, McHenry and Will counties the tax rate shall be 0.75% of the selling price of the tangible personal property, as "selling price" is defined in the Use Tax Act. The tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the metropolitan region. The tax shall be collected by the Department of Revenue for the Regional Transportation Authority. The tax must be paid to the State, or an exemption determination must be obtained from the Department of Revenue, before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the Department by way of the State agency with which, or the State officer with whom, the tangible personal property must be titled or registered if the Department and the

State agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this paragraph; to collect all taxes, penalties and interest due hereunder; to dispose of taxes, penalties and interest collected in the manner hereinafter provided; and to determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms and employ the same modes of procedure, as are prescribed in Sections 2 (except the definition of "retailer maintaining a place of business in this State"), 3 through 3-80 (except provisions pertaining to the State rate of tax, and except provisions concerning collection or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15, 19 (except the portions pertaining to claims by retailers and except the last paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act, and are not inconsistent with this paragraph, as fully as if those provisions were set forth herein.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a

credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

(h) The Authority may impose a replacement vehicle tax of \$50 on any passenger car as defined in Section 1-157 of the Illinois Vehicle Code purchased within the metropolitan region by or on behalf of an insurance company to replace a passenger car of an insured person in settlement of a total loss claim. The tax imposed may not become effective before the first day of the month following the passage of the ordinance imposing the tax and receipt of a certified copy of the ordinance by the Department of Revenue. The Department of Revenue shall collect the tax for the Authority in accordance with Sections 3-2002 and 3-2003 of the Illinois Vehicle Code.

The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes collected hereunder.

As soon as possible after the first day of each month, beginning January 1, 2011, upon certification of the Department of Revenue, the Comptroller shall order transferred, and the Treasurer shall transfer, to the STAR Bonds Revenue Fund the local sales tax increment, as defined in the Innovation Development and Economy Act, collected under this Section

during the second preceding calendar month for sales within a STAR bond district.

After the monthly transfer to the STAR Bonds Revenue Fund, on or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the Authority. The amount to be paid to the Authority shall be the amount collected hereunder during the second preceding calendar month by the Department, less any amount determined by the Department to be necessary for the payment of refunds, and less any amounts that are transferred to the STAR Bonds Revenue Fund. Within 10 days after receipt by the Comptroller of the disbursement certification to the Authority provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for that amount in accordance with the directions contained in the certification.

(i) The Board may not impose any other taxes except as it may from time to time be authorized by law to impose.

(j) A certificate of registration issued by the State Department of Revenue to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit the registrant to engage in a business that is taxed under the tax imposed under paragraphs (b), (e), (f) or (g) of this Section and no additional registration shall be required under the tax. A certificate issued under the Use Tax

Act or the Service Use Tax Act shall be applicable with regard to any tax imposed under paragraph (c) of this Section.

(k) The provisions of any tax imposed under paragraph (c) of this Section shall conform as closely as may be practicable to the provisions of the Use Tax Act, including without limitation conformity as to penalties with respect to the tax imposed and as to the powers of the State Department of Revenue to promulgate and enforce rules and regulations relating to the administration and enforcement of the provisions of the tax imposed. The taxes shall be imposed only on use within the metropolitan region and at rates as provided in the paragraph.

(l) The Board in imposing any tax as provided in paragraphs (b) and (c) of this Section, shall, after seeking the advice of the State Department of Revenue, provide means for retailers, users or purchasers of motor fuel for purposes other than those with regard to which the taxes may be imposed as provided in those paragraphs to receive refunds of taxes improperly paid, which provisions may be at variance with the refund provisions as applicable under the Municipal Retailers Occupation Tax Act. The State Department of Revenue may provide for certificates of registration for users or purchasers of motor fuel for purposes other than those with regard to which taxes may be imposed as provided in paragraphs (b) and (c) of this Section to facilitate the reporting and nontaxability of the exempt sales or uses.

(m) Any ordinance imposing or discontinuing any tax under

this Section shall be adopted and a certified copy thereof filed with the Department on or before June 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the Regional Transportation Authority as of September 1 next following such adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, an ordinance or resolution imposing, increasing, decreasing, or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department, whereupon the Department shall proceed to administer and enforce this Section as of the first day of the first month to occur not less than 60 days following such adoption and filing. Any ordinance or resolution of the Authority imposing a tax under this Section and in effect on August 1, 2007 shall remain in full force and effect and shall be administered by the Department of Revenue under the terms and conditions and rates of tax established by such ordinance or resolution until the Department begins administering and enforcing an increased tax under this Section as authorized by this amendatory Act of the 95th General Assembly. The tax rates authorized by this amendatory Act of the 95th General Assembly

are effective only if imposed by ordinance of the Authority.

(n) The State Department of Revenue shall, upon collecting any taxes as provided in this Section, pay the taxes over to the State Treasurer as trustee for the Authority. The taxes shall be held in a trust fund outside the State Treasury. On or before the 25th day of each calendar month, the State Department of Revenue shall prepare and certify to the Comptroller of the State of Illinois and to the Authority (i) the amount of taxes collected in each County other than Cook County in the metropolitan region, (ii) the amount of taxes collected within the City of Chicago, and (iii) the amount collected in that portion of Cook County outside of Chicago, each amount less the amount necessary for the payment of refunds to taxpayers located in those areas described in items (i), (ii), and (iii). Within 10 days after receipt by the Comptroller of the certification of the amounts, the Comptroller shall cause an order to be drawn for the payment of two-thirds of the amounts certified in item (i) of this subsection to the Authority and one-third of the amounts certified in item (i) of this subsection to the respective counties other than Cook County and the amount certified in items (ii) and (iii) of this subsection to the Authority.

In addition to the disbursement required by the preceding paragraph, an allocation shall be made in July 1991 and each year thereafter to the Regional Transportation Authority. The allocation shall be made in an amount equal to the average

monthly distribution during the preceding calendar year (excluding the 2 months of lowest receipts) and the allocation shall include the amount of average monthly distribution from the Regional Transportation Authority Occupation and Use Tax Replacement Fund. The distribution made in July 1992 and each year thereafter under this paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the preceding calendar year. The Department of Revenue shall prepare and certify to the Comptroller for disbursement the allocations made in accordance with this paragraph.

(o) Failure to adopt a budget ordinance or otherwise to comply with Section 4.01 of this Act or to adopt a Five-year Capital Program or otherwise to comply with paragraph (b) of Section 2.01 of this Act shall not affect the validity of any tax imposed by the Authority otherwise in conformity with law.

(p) At no time shall a public transportation tax or motor vehicle parking tax authorized under paragraphs (b), (c) and (d) of this Section be in effect at the same time as any retailers' occupation, use or service occupation tax authorized under paragraphs (e), (f) and (g) of this Section is in effect.

Any taxes imposed under the authority provided in paragraphs (b), (c) and (d) shall remain in effect only until the time as any tax authorized by paragraphs (e), (f) or (g) of this Section are imposed and becomes effective. Once any tax

authorized by paragraphs (e), (f) or (g) is imposed the Board may not reimpose taxes as authorized in paragraphs (b), (c) and (d) of the Section unless any tax authorized by paragraphs (e), (f) or (g) of this Section becomes ineffective by means other than an ordinance of the Board.

(q) Any existing rights, remedies and obligations (including enforcement by the Regional Transportation Authority) arising under any tax imposed under paragraphs (b), (c) or (d) of this Section shall not be affected by the imposition of a tax under paragraphs (e), (f) or (g) of this Section.

(Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10; 96-939, eff. 6-24-10.)

Section 90-80. The Alternative Health Care Delivery Act is amended by changing Section 15 as follows:

(210 ILCS 3/15)

Sec. 15. License required. No health care facility or program that meets the definition and scope of an alternative health care model shall operate as such unless it is a participant in a demonstration program under this Act and licensed by the Department as an alternative health care model. The provisions of this Section as they relate to subacute care hospitals shall not apply to hospitals licensed under the Illinois Hospital Licensing Act or ~~skilled nursing~~ facilities

licensed under the Illinois Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act; provided, however, that the facilities shall not hold themselves out to the public as subacute care hospitals. The provisions of this Act concerning children's respite care centers shall not apply to any facility licensed under the Hospital Licensing Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, the MR/DD Community Care Act, or the University of Illinois Hospital Act that provides respite care services to children.

(Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

Section 90-85. The Ambulatory Surgical Treatment Center Act is amended by changing Section 3 as follows:

(210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

Sec. 3. As used in this Act, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them:

(A) "Ambulatory surgical treatment center" means any institution, place or building devoted primarily to the maintenance and operation of facilities for the performance of surgical procedures or any facility in which a medical or surgical procedure is utilized to terminate a pregnancy, irrespective of whether the facility is devoted primarily to this purpose. Such facility shall not provide beds or other

accommodations for the overnight stay of patients; however, facilities devoted exclusively to the treatment of children may provide accommodations and beds for their patients for up to 23 hours following admission. Individual patients shall be discharged in an ambulatory condition without danger to the continued well being of the patients or shall be transferred to a hospital.

The term "ambulatory surgical treatment center" does not include any of the following:

(1) Any institution, place, building or agency required to be licensed pursuant to the "Hospital Licensing Act", approved July 1, 1953, as amended.

(2) Any person or institution required to be licensed pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act.

(3) Hospitals or ambulatory surgical treatment centers maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitals or ambulatory surgical treatment centers under its management and control.

(4) Hospitals or ambulatory surgical treatment centers maintained by the Federal Government or agencies thereof.

(5) Any place, agency, clinic, or practice, public or private, whether organized for profit or not, devoted

exclusively to the performance of dental or oral surgical procedures.

(B) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, or the legal successor thereof.

(C) "Department" means the Department of Public Health of the State of Illinois.

(D) "Director" means the Director of the Department of Public Health of the State of Illinois.

(E) "Physician" means a person licensed to practice medicine in all of its branches in the State of Illinois.

(F) "Dentist" means a person licensed to practice dentistry under the Illinois Dental Practice Act.

(G) "Podiatrist" means a person licensed to practice podiatry under the Podiatric Medical Practice Act of 1987.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-90. The Assisted Living and Shared Housing Act is amended by changing Sections 10, 35, 55, and 145 as follows:

(210 ILCS 9/10)

Sec. 10. Definitions. For purposes of this Act:

"Activities of daily living" means eating, dressing, bathing, toileting, transferring, or personal hygiene.

"Assisted living establishment" or "establishment" means a home, building, residence, or any other place where sleeping

accommodations are provided for at least 3 unrelated adults, at least 80% of whom are 55 years of age or older and where the following are provided consistent with the purposes of this Act:

(1) services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and

(4) a physical environment that is a homelike setting that includes the following and such other elements as established by the Department: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual

and group activities.

"Assisted living establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act, a facility licensed under the Specialized Mental Health Rehabilitation Act, or a facility licensed under the MR/DD Community Care Act. However, a facility licensed under either of those Acts may convert distinct parts of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing and sheltered care beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious

denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) The portion of a life care facility as defined in the Life Care Facilities Act not licensed as an assisted living establishment under this Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) A shared housing establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Emergency situation" means imminent danger of death or serious physical harm to a resident of an establishment.

"License" means any of the following types of licenses issued to an applicant or licensee by the Department:

(1) "Probationary license" means a license issued to an applicant or licensee that has not held a license under this Act prior to its application or pursuant to a license

transfer in accordance with Section 50 of this Act.

(2) "Regular license" means a license issued by the Department to an applicant or licensee that is in substantial compliance with this Act and any rules promulgated under this Act.

"Licensee" means a person, agency, association, corporation, partnership, or organization that has been issued a license to operate an assisted living or shared housing establishment.

"Licensed health care professional" means a registered professional nurse, an advanced practice nurse, a physician assistant, and a licensed practical nurse.

"Mandatory services" include the following:

(1) 3 meals per day available to the residents prepared by the establishment or an outside contractor;

(2) housekeeping services including, but not limited to, vacuuming, dusting, and cleaning the resident's unit;

(3) personal laundry and linen services available to the residents provided or arranged for by the establishment;

(4) security provided 24 hours each day including, but not limited to, locked entrances or building or contract security personnel;

(5) an emergency communication response system, which is a procedure in place 24 hours each day by which a resident can notify building management, an emergency

response vendor, or others able to respond to his or her need for assistance; and

(6) assistance with activities of daily living as required by each resident.

"Negotiated risk" is the process by which a resident, or his or her representative, may formally negotiate with providers what risks each are willing and unwilling to assume in service provision and the resident's living environment. The provider assures that the resident and the resident's representative, if any, are informed of the risks of these decisions and of the potential consequences of assuming these risks.

"Owner" means the individual, partnership, corporation, association, or other person who owns an assisted living or shared housing establishment. In the event an assisted living or shared housing establishment is operated by a person who leases or manages the physical plant, which is owned by another person, "owner" means the person who operates the assisted living or shared housing establishment, except that if the person who owns the physical plant is an affiliate of the person who operates the assisted living or shared housing establishment and has significant control over the day to day operations of the assisted living or shared housing establishment, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under this Act.

"Physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine in all of its branches.

"Resident" means a person residing in an assisted living or shared housing establishment.

"Resident's representative" means a person, other than the owner, agent, or employee of an establishment or of the health care provider unless related to the resident, designated in writing by a resident to be his or her representative. This designation may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed designation of representative form specified by the Department.

"Self" means the individual or the individual's designated representative.

"Shared housing establishment" or "establishment" means a publicly or privately operated free-standing residence for 16 or fewer persons, at least 80% of whom are 55 years of age or older and who are unrelated to the owners and one manager of the residence, where the following are provided:

(1) services consistent with a social model that is based on the premise that the resident's unit is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent

health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident; and

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident's representative.

"Shared housing establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act, a facility licensed under the Specialized Mental Health Rehabilitation Act, or a facility licensed under the MR/DD Community Care Act. A facility licensed under either of those Acts may, however, convert sections of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) A life care facility as defined in the Life Care Facilities Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) An assisted living establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Total assistance" means that staff or another individual performs the entire activity of daily living without participation by the resident.

(Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10;

96-975, eff. 7-2-10.)

(210 ILCS 9/35)

Sec. 35. Issuance of license.

(a) Upon receipt and review of an application for a license and review of the applicant establishment, the Director may issue a license if he or she finds:

(1) that the individual applicant, or the corporation, partnership, or other entity if the applicant is not an individual, is a person responsible and suitable to operate or to direct or participate in the operation of an establishment by virtue of financial capacity, appropriate business or professional experience, a record of lawful compliance with lawful orders of the Department and lack of revocation of a license issued under this Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act during the previous 5 years;

(2) that the establishment is under the supervision of a full-time director who is at least 21 years of age and has a high school diploma or equivalent plus either:

(A) 2 years of management experience or 2 years of experience in positions of progressive responsibility in health care, housing with services, or adult day care or providing similar services to the elderly; or

(B) 2 years of management experience or 2 years of

experience in positions of progressive responsibility in hospitality and training in health care and housing with services management as defined by rule;

(3) that the establishment has staff sufficient in number with qualifications, adequate skills, education, and experience to meet the 24 hour scheduled and unscheduled needs of residents and who participate in ongoing training to serve the resident population;

(4) that all employees who are subject to the Health Care Worker Background Check Act meet the requirements of that Act;

(5) that the applicant is in substantial compliance with this Act and such other requirements for a license as the Department by rule may establish under this Act;

(6) that the applicant pays all required fees;

(7) that the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Disease and Related Dementias Special Care Disclosure Act and in substantial compliance with Section 150 of this Act.

In addition to any other requirements set forth in this Act, as a condition of licensure under this Act, the director of an establishment must participate in at least 20 hours of training every 2 years to assist him or her in better meeting the needs of the residents of the establishment and managing the operation of the establishment.

Any license issued by the Director shall state the physical location of the establishment, the date the license was issued, and the expiration date. All licenses shall be valid for one year, except as provided in Sections 40 and 45. Each license shall be issued only for the premises and persons named in the application, and shall not be transferable or assignable.

(Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07; 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-990, eff. 7-2-10.)

(210 ILCS 9/55)

Sec. 55. Grounds for denial of a license. An application for a license may be denied for any of the following reasons:

(1) failure to meet any of the standards set forth in this Act or by rules adopted by the Department under this Act;

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

(3) personnel insufficient in number or unqualified by training or experience to properly care for the residents;

(4) insufficient financial or other resources to operate and conduct the establishment in accordance with standards adopted by the Department under this Act;

(5) revocation of a license during the previous 5 years, if such prior license was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant; or any affiliate of the individual applicant or controlling owner of the applicant and such individual applicant, controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior license; provided, however, that the denial of an application for a license pursuant to this Section must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of meeting or maintaining an establishment in accordance with the standards and rules adopted by the Department under this Act; or

(6) the establishment is not under the direct supervision of a full-time director, as defined by rule.

The Department shall deny an application for a license if 6 months after submitting its initial application the applicant has not provided the Department with all of the information required for review and approval or the applicant is not actively pursuing the processing of its application. In addition, the Department shall determine whether the applicant has violated any provision of the Nursing Home Care Act, the

Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 9/145)

Sec. 145. Conversion of facilities. Entities licensed as facilities under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act may elect to convert to a license under this Act. Any facility that chooses to convert, in whole or in part, shall follow the requirements in the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, as applicable, and rules promulgated under those Acts regarding voluntary closure and notice to residents. Any conversion of existing beds licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act to licensure under this Act is exempt from review by the Health Facilities and Services Review Board.

(Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 90-95. The Abuse Prevention Review Team Act is amended by changing Sections 10 and 50 as follows:

(210 ILCS 28/10)

Sec. 10. Definitions. As used in this Act, unless the context requires otherwise:

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Executive Council" means the Illinois Residential Health Care Facility Resident Sexual Assault and Death Review Teams Executive Council.

"Resident" means a person residing in and receiving personal care from a facility licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act.

"Review team" means a residential health care facility resident sexual assault and death review team appointed under this Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 28/50)

Sec. 50. Funding. Notwithstanding any other provision of law, to the extent permitted by federal law, the Department shall use moneys from fines paid by facilities licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act for violating requirements for certification under Titles XVIII and XIX of the Social Security Act to implement the provisions of this Act. The Department shall use moneys deposited in the Long Term Care Monitor/Receiver Fund to pay the costs of

implementing this Act that cannot be met by the use of federal civil monetary penalties.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-100. The Abused and Neglected Long Term Care Facility Residents Reporting Act is amended by changing Sections 3, 4, and 6 as follows:

(210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

Sec. 3. As used in this Act unless the context otherwise requires:

a. "Department" means the Department of Public Health of the State of Illinois.

b. "Resident" means a person residing in and receiving personal care from a long term care facility, or residing in a mental health facility or developmental disability facility as defined in the Mental Health and Developmental Disabilities Code.

c. "Long term care facility" has the same meaning ascribed to such term in the Nursing Home Care Act, except that the term as used in this Act shall include any mental health facility or developmental disability facility as defined in the Mental Health and Developmental Disabilities Code. The term also includes any facility licensed under the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act.

d. "Abuse" means any physical injury, sexual abuse or

mental injury inflicted on a resident other than by accidental means.

e. "Neglect" means a failure in a long term care facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition.

f. "Protective services" means services provided to a resident who has been abused or neglected, which may include, but are not limited to alternative temporary institutional placement, nursing care, counseling, other social services provided at the nursing home where the resident resides or at some other facility, personal care and such protective services of voluntary agencies as are available.

g. Unless the context otherwise requires, direct or indirect references in this Act to the programs, personnel, facilities, services, service providers, or service recipients of the Department of Human Services shall be construed to refer only to those programs, personnel, facilities, services, service providers, or service recipients that pertain to the Department of Human Services' mental health and developmental disabilities functions.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

Sec. 4. Any long term care facility administrator, agent or

employee or any physician, hospital, surgeon, dentist, osteopath, chiropractor, podiatrist, accredited religious practitioner who provides treatment by spiritual means alone through prayer in accordance with the tenets and practices of the accrediting church, coroner, social worker, social services administrator, registered nurse, law enforcement officer, field personnel of the Department of Healthcare and Family Services, field personnel of the Illinois Department of Public Health and County or Municipal Health Departments, personnel of the Department of Human Services (acting as the successor to the Department of Mental Health and Developmental Disabilities or the Department of Public Aid), personnel of the Guardianship and Advocacy Commission, personnel of the State Fire Marshal, local fire department inspectors or other personnel, or personnel of the Illinois Department on Aging, or its subsidiary Agencies on Aging, or employee of a facility licensed under the Assisted Living and Shared Housing Act, having reasonable cause to believe any resident with whom they have direct contact has been subjected to abuse or neglect shall immediately report or cause a report to be made to the Department. Persons required to make reports or cause reports to be made under this Section include all employees of the State of Illinois who are involved in providing services to residents, including professionals providing medical or rehabilitation services and all other persons having direct contact with residents; and further include all employees of

community service agencies who provide services to a resident of a public or private long term care facility outside of that facility. Any long term care surveyor of the Illinois Department of Public Health who has reasonable cause to believe in the course of a survey that a resident has been abused or neglected and initiates an investigation while on site at the facility shall be exempt from making a report under this Section but the results of any such investigation shall be forwarded to the central register in a manner and form described by the Department.

The requirement of this Act shall not relieve any long term care facility administrator, agent or employee of responsibility to report the abuse or neglect of a resident under Section 3-610 of the Nursing Home Care Act or under Section 3-610 of the MR/DD Community Care Act or under Section 3-610 of the Specialized Mental Health Rehabilitation Act.

In addition to the above persons required to report suspected resident abuse and neglect, any other person may make a report to the Department, or to any law enforcement officer, if such person has reasonable cause to suspect a resident has been abused or neglected.

This Section also applies to residents whose death occurs from suspected abuse or neglect before being found or brought to a hospital.

A person required to make reports or cause reports to be made under this Section who fails to comply with the

requirements of this Section is guilty of a Class A misdemeanor.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

Sec. 6. All reports of suspected abuse or neglect made under this Act shall be made immediately by telephone to the Department's central register established under Section 14 on the single, State-wide, toll-free telephone number established under Section 13, or in person or by telephone through the nearest Department office. No long term care facility administrator, agent or employee, or any other person, shall screen reports or otherwise withhold any reports from the Department, and no long term care facility, department of State government, or other agency shall establish any rules, criteria, standards or guidelines to the contrary. Every long term care facility, department of State government and other agency whose employees are required to make or cause to be made reports under Section 4 shall notify its employees of the provisions of that Section and of this Section, and provide to the Department documentation that such notification has been given. The Department of Human Services shall train all of its mental health and developmental disabilities employees in the detection and reporting of suspected abuse and neglect of residents. Reports made to the central register through the State-wide, toll-free telephone number shall be transmitted to

appropriate Department offices and municipal health departments that have responsibility for licensing long term care facilities under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act. All reports received through offices of the Department shall be forwarded to the central register, in a manner and form described by the Department. The Department shall be capable of receiving reports of suspected abuse and neglect 24 hours a day, 7 days a week. Reports shall also be made in writing deposited in the U.S. mail, postage prepaid, within 24 hours after having reasonable cause to believe that the condition of the resident resulted from abuse or neglect. Such reports may in addition be made to the local law enforcement agency in the same manner. However, in the event a report is made to the local law enforcement agency, the reporter also shall immediately so inform the Department. The Department shall initiate an investigation of each report of resident abuse and neglect under this Act, whether oral or written, as provided for in Section 3-702 of the Nursing Home Care Act, Section 3-702 of the Specialized Mental Health Rehabilitation Act, or Section 3-702 of the MR/DD Community Care Act, except that reports of abuse which indicate that a resident's life or safety is in imminent danger shall be investigated within 24 hours of such report. The Department may delegate to law enforcement officials or other public agencies the duty to perform such investigation.

With respect to investigations of reports of suspected abuse or neglect of residents of mental health and developmental disabilities institutions under the jurisdiction of the Department of Human Services, the Department shall transmit copies of such reports to the Department of State Police, the Department of Human Services, and the Inspector General appointed under Section 1-17 of the Department of Human Services Act. If the Department receives a report of suspected abuse or neglect of a recipient of services as defined in Section 1-123 of the Mental Health and Developmental Disabilities Code, the Department shall transmit copies of such report to the Inspector General and the Directors of the Guardianship and Advocacy Commission and the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act. When requested by the Director of the Guardianship and Advocacy Commission, the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act, or the Department of Financial and Professional Regulation, the Department, the Department of Human Services and the Department of State Police shall make available a copy of the final investigative report regarding investigations conducted by their respective agencies on incidents of suspected abuse or neglect of residents of mental health and developmental disabilities institutions or individuals receiving services at community agencies under the jurisdiction of the Department of

Human Services. Such final investigative report shall not contain witness statements, investigation notes, draft summaries, results of lie detector tests, investigative files or other raw data which was used to compile the final investigative report. Specifically, the final investigative report of the Department of State Police shall mean the Director's final transmittal letter. The Department of Human Services shall also make available a copy of the results of disciplinary proceedings of employees involved in incidents of abuse or neglect to the Directors. All identifiable information in reports provided shall not be further disclosed except as provided by the Mental Health and Developmental Disabilities Confidentiality Act. Nothing in this Section is intended to limit or construe the power or authority granted to the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act, pursuant to any other State or federal statute.

With respect to investigations of reported resident abuse or neglect, the Department shall effect with appropriate law enforcement agencies formal agreements concerning methods and procedures for the conduct of investigations into the criminal histories of any administrator, staff assistant or employee of the nursing home or other person responsible for the residents care, as well as for other residents in the nursing home who may be in a position to abuse, neglect or exploit the patient. Pursuant to the formal agreements entered into with appropriate

law enforcement agencies, the Department may request information with respect to whether the person or persons set forth in this paragraph have ever been charged with a crime and if so, the disposition of those charges. Unless the criminal histories of the subjects involved crimes of violence or resident abuse or neglect, the Department shall be entitled only to information limited in scope to charges and their dispositions. In cases where prior crimes of violence or resident abuse or neglect are involved, a more detailed report can be made available to authorized representatives of the Department, pursuant to the agreements entered into with appropriate law enforcement agencies. Any criminal charges and their disposition information obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required herein, to authorized representatives or delegates of the Department, and may not be transmitted to anyone within the Department who is not duly authorized to handle resident abuse or neglect investigations.

The Department shall effect formal agreements with appropriate law enforcement agencies in the various counties and communities to encourage cooperation and coordination in the handling of resident abuse or neglect cases pursuant to this Act. The Department shall adopt and implement methods and procedures to promote statewide uniformity in the handling of reports of abuse and neglect under this Act, and those methods and procedures shall be adhered to by personnel of the

Department involved in such investigations and reporting. The Department shall also make information required by this Act available to authorized personnel within the Department, as well as its authorized representatives.

The Department shall keep a continuing record of all reports made pursuant to this Act, including indications of the final determination of any investigation and the final disposition of all reports.

The Department shall report annually to the General Assembly on the incidence of abuse and neglect of long term care facility residents, with special attention to residents who are mentally disabled. The report shall include but not be limited to data on the number and source of reports of suspected abuse or neglect filed under this Act, the nature of any injuries to residents, the final determination of investigations, the type and number of cases where abuse or neglect is determined to exist, and the final disposition of cases.

(Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

Section 90-105. The Nursing Home Care Act is amended by changing Sections 1-113, 2-204, 3-202.5, and 3-206.01 as follows:

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

Sec. 1-113. "Facility" or "long-term care facility" means a

private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for 3 or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act. It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs.

"Facility" does not include the following:

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

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

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

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

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

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

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

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

(9) Any "supportive living facility" in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(10) Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(11) An Alzheimer's disease management center

alternative health care model licensed under the Alternative Health Care Delivery Act; ~~or~~

(12) A facility licensed under the MR/DD Community Care Act; or

(13) A facility licensed under the Specialized Mental Health Rehabilitation Act.

(Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

(210 ILCS 45/2-204) (from Ch. 111 1/2, par. 4152-204)

Sec. 2-204. The Director shall appoint a Long-Term Care Facility Advisory Board to consult with the Department and the residents' advisory councils created under Section 2-203.

(a) The Board shall be comprised of the following persons:

(1) The Director who shall serve as chairman, ex officio and nonvoting; and

(2) One representative each of the Department of Healthcare and Family Services, the Department of Human Services, the Department on Aging, and the Office of the State Fire Marshal, all nonvoting members;

(3) One member who shall be a physician licensed to practice medicine in all its branches;

(4) One member who shall be a registered nurse selected from the recommendations of professional nursing associations;

(5) Four members who shall be selected from the recommendations by organizations whose membership consists

of facilities;

(6) Two members who shall represent the general public who are not members of a residents' advisory council established under Section 2-203 and who have no responsibility for management or formation of policy or financial interest in a facility;

(7) One member who is a member of a residents' advisory council established under Section 2-203 and is capable of actively participating on the Board; and

(8) One member who shall be selected from the recommendations of consumer organizations which engage solely in advocacy or legal representation on behalf of residents and their immediate families.

(b) The terms of those members of the Board appointed prior to the effective date of this amendatory Act of 1988 shall expire on December 31, 1988. Members of the Board created by this amendatory Act of 1988 shall be appointed to serve for terms as follows: 3 for 2 years, 3 for 3 years and 3 for 4 years. The member of the Board added by this amendatory Act of 1989 shall be appointed to serve for a term of 4 years. Each successor member shall be appointed for a term of 4 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. The Board shall meet as frequently as the chairman deems necessary, but not less than 4 times each year. Upon request by 4 or more

members the chairman shall call a meeting of the Board. The affirmative vote of 6 members of the Board shall be necessary for Board action. A member of the Board can designate a replacement to serve at the Board meeting and vote in place of the member by submitting a letter of designation to the chairman prior to or at the Board meeting. The Board members shall be reimbursed for their actual expenses incurred in the performance of their duties.

(c) The Advisory Board shall advise the Department of Public Health on all aspects of its responsibilities under this Act and the Specialized Mental Health Rehabilitation Facilities Act, including the format and content of any rules promulgated by the Department of Public Health. Any such rules, except emergency rules promulgated pursuant to Section 5-45 of the Illinois Administrative Procedure Act, promulgated without obtaining the advice of the Advisory Board are null and void. In the event that the Department fails to follow the advice of the Board, the Department shall, prior to the promulgation of such rules, transmit a written explanation of the reason thereof to the Board. During its review of rules, the Board shall analyze the economic and regulatory impact of those rules. If the Advisory Board, having been asked for its advice, fails to advise the Department within 90 days, the rules shall be considered acted upon.

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

(210 ILCS 45/3-202.5)

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

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

(b) The Department shall inform an applicant in writing within 10 working days after receiving drawings and specifications and the required fee, if any, from the applicant whether the applicant's submission is complete or incomplete. Failure to provide the applicant with this notice within 10

working days shall result in the submission being deemed complete for purposes of initiating the 60-day review period under this Section. If the submission is incomplete, the Department shall inform the applicant of the deficiencies with the submission in writing. If the submission is complete the required fee, if any, has been paid, the Department shall approve or disapprove drawings and specifications submitted to the Department no later than 60 days following receipt by the Department. The drawings and specifications shall be of sufficient detail, as provided by Department rule, to enable the Department to render a determination of compliance with design and construction standards under this Act. If the Department finds that the drawings are not of sufficient detail for it to render a determination of compliance, the plans shall be determined to be incomplete and shall not be considered for purposes of initiating the 60 day review period. If a submission of drawings and specifications is incomplete, the applicant may submit additional information. The 60-day review period shall not commence until the Department determines that a submission of drawings and specifications is complete or the submission is deemed complete. If the Department has not approved or disapproved the drawings and specifications within 60 days, the construction, major alteration, or addition shall be deemed approved. If the drawings and specifications are disapproved, the Department shall state in writing, with specificity, the reasons for the disapproval. The entity

submitting the drawings and specifications may submit additional information in response to the written comments from the Department or request a reconsideration of the disapproval. A final decision of approval or disapproval shall be made within 45 days of the receipt of the additional information or reconsideration request. If denied, the Department shall state the specific reasons for the denial.

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

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

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

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

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

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

(1) (Blank).

(2) (Blank).

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

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

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

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

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

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

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

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

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

(2) On and after the effective date of this amendatory Act of 1997 and before October 1, 1997, an applicant may submit or resubmit drawings and specifications to the Department and pay the fees provided in subsection (d). If an applicant pays the fees provided in subsection (d) under

this paragraph (2), the provisions of subsection (b) shall apply with regard to those drawings and specifications.

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

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

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

(j) Nothing in this Section shall be construed to apply to maintenance, upkeep, or renovation that does not affect the structural integrity of the building, does not add beds or services over the number for which the long-term care facility

is licensed, and provides a reasonable degree of safety for the residents.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-110. The MR/DD Community Care Act is amended by changing Sections 1-114.01, 1-122, 1-129, 1-130, 2-104, 2-106.1, 2-201.5, 2-205, 2-208, 3-109, 3-110, 3-112, 3-117, 3-119, 3-202, 3-206, 3-206.01, 3-206.02, 3-212, 3-303, 3-303.2, 3-304.1, 3-304.2, 3-305, 3-306, 3-308, 3-309, 3-310, 3-318, 3-402, 3-501, 3-502, 3-504, 3-703, and 3-712 and by adding Sections 1-111.05, 1-114.001, 1-114.005, 1-120.3, 1-128.5, 1-132, 2-114, 2-115, 2-201.6, 2-217, 2-218, 3-119.1, 3-202.2a, 3-206.04, 3-808, 3-808.5, 3-809, and 3-810 as follows:

(210 ILCS 47/1-111.05 new)

Sec. 1-111.05. Distressed facility. "Distressed facility" means a facility determined by the Department to be a distressed facility pursuant to Section 3-304.2 of this Act.

(210 ILCS 47/1-114.001 new)

Sec. 1-114.001. Habilitation. "Habilitation" means an effort directed toward increasing a person's level of physical, mental, social, or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living

arrangements, training, education, employment services, protective services, and counseling.

(210 ILCS 47/1-114.005 new)

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

(210 ILCS 47/1-114.01)

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

(1) Has been convicted of, found guilty of, adjudicated delinquent for, found not guilty by reason of insanity for, or found unfit to stand trial for any felony offense listed in Section 25 of the Health Care Worker Background Check Act, except for the following:

(i) a felony offense described in Section 10-5 of the Nurse Practice Act;

(ii) a felony offense described in Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act;

(iii) a felony offense described in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act;

(iv) a felony offense described in Section 401,

401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act; and

(v) a felony offense described in the Methamphetamine Control and Community Protection Act.

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/1-120.3 new)

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

(210 ILCS 47/1-122)

Sec. 1-122. Resident. "Resident" means a person receiving personal or medical care, including, but not limited to, habilitation, psychiatric services, therapeutic services, and assistance with activities of daily living from a facility ~~residing in and receiving personal care from a facility.~~

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/1-128.5 new)

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

(210 ILCS 47/1-129)

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/1-130)

Sec. 1-130. Type 'B' violation. A "Type 'B' violation" means a violation of this Act or of the rules promulgated thereunder which (i) creates a condition or occurrence relating to the operation and maintenance of a facility that is more likely than not to cause more than minimal physical or mental harm to a resident or (ii) is specifically designated as a Type "B" violation in this Act ~~directly threatening to the health, safety or welfare of a resident.~~

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/1-132 new)

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

(210 ILCS 47/2-104)

Sec. 2-104. Medical treatment; records.

(a) A resident shall be permitted to retain the services of his or her own personal physician at his or her own expense or under an individual or group plan of health insurance, or under any public or private assistance program providing such

coverage. However, the facility is not liable for the negligence of any such personal physician. Every resident shall be permitted to obtain from his or her own physician or the physician attached to the facility complete and current information concerning his or her medical diagnosis, treatment and prognosis in terms and language the resident can reasonably be expected to understand. Every resident shall be permitted to participate in the planning of his or her total care and medical treatment to the extent that his or her condition permits. No resident shall be subjected to experimental research or treatment without first obtaining his or her informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review board ~~committee~~ appointed by the Director ~~administrator of the facility where such research and treatment is conducted~~. The membership, operating procedures and review criteria for the institutional review board ~~committees~~ shall be prescribed under rules and regulations of the Department and shall comply with the requirements for institutional review boards established by the federal Food and Drug Administration. No person who has received compensation in the prior 3 years from an entity that manufactures, distributes, or sells pharmaceuticals, biologics, or medical devices may serve on the institutional review board.

The institutional review board may approve only research or treatment that meets the standards of the federal Food and Drug

Administration with respect to (i) the protection of human subjects and (ii) financial disclosure by clinical investigators. The Office of State Long Term Care Ombudsman and the State Protection and Advocacy organization shall be given an opportunity to comment on any request for approval before the board makes a decision. Those entities shall not be provided information that would allow a potential human subject to be individually identified, unless the board asks the Ombudsman for help in securing information from or about the resident. The board shall require frequent reporting of the progress of the approved research or treatment and its impact on residents, including immediate reporting of any adverse impact to the resident, the resident's representative, the Office of the State Long Term Care Ombudsman, and the State Protection and Advocacy organization. The board may not approve any retrospective study of the records of any resident about the safety or efficacy of any care or treatment if the resident was under the care of the proposed researcher or a business associate when the care or treatment was given, unless the study is under the control of a researcher without any business relationship to any person or entity who could benefit from the findings of the study.

No facility shall permit experimental research or treatment to be conducted on a resident or give access to any person or person's records for a retrospective study about the safety or efficacy of any care or treatment without the prior

written approval of the institutional review board. No administrator, or person licensed by the State to provide medical care or treatment to any person may assist or participate in any experimental research on or treatment of a resident, including a retrospective study, that does not have the prior written approval of the board. Such conduct shall be grounds for professional discipline by the Department of Financial and Professional Regulation.

The institutional review board may exempt from ongoing review research or treatment initiated on a resident before the individual's admission to a facility and for which the board determines there is adequate ongoing oversight by another institutional review board. Nothing in this Section shall prevent a facility, any facility employee, or any other person from assisting or participating in any experimental research on or treatment of a resident if the research or treatment began before the person's admission to a facility, until the board has reviewed the research or treatment and decided to grant or deny approval or to exempt the research or treatment from ongoing review.

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

According to rules adopted by the Department, every woman

resident of child bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care.

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/2-106.1)

Sec. 2-106.1. Drug treatment.

(a) A resident shall not be given unnecessary drugs. An unnecessary drug is any drug used in an excessive dose, including in duplicative therapy; for excessive duration; without adequate monitoring; without adequate indications for its use; or in the presence of adverse consequences that indicate the drugs should be reduced or discontinued. The Department shall adopt, by rule, the standards for unnecessary

drugs contained in interpretive guidelines issued by the United States Department of Health and Human Services for the purposes of administering Titles XVIII and XIX of the Social Security Act.

(b) Psychotropic medication shall not be administered ~~prescribed~~ without the informed consent of the resident, the resident's guardian, or other authorized representative. "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, antimanic, or antianxiety behavior modification or behavior management purposes in the latest editions of the AMA Drug Evaluations or the Physician's Desk Reference. The Department shall adopt, by rule, a protocol specifying how informed consent for psychotropic medication may be obtained or refused. The protocol shall require, at a minimum, a discussion between (1) the resident or the resident's authorized representative and (2) the resident's physician, a registered pharmacist who is not a dispensing pharmacist for the facility where the resident lives, or a licensed nurse about the possible risks and benefits of a recommended medication and the use of standardized consent forms designated by the Department. Each form developed by the Department (i) shall be written in plain language, (ii) shall be able to be downloaded from the Department's official website, (iii) shall include information specific to the psychotropic medication for which consent is being sought, and (iv) shall be used for every resident for

whom psychotropic drugs are prescribed. In addition to creating those forms, the Department shall approve the use of any other informed consent forms that meet criteria developed by the Department.

In addition to any other requirement prescribed by law, a facility that is found to have violated this subsection or the federal certification requirement that informed consent be obtained before administering a psychotropic medication shall for 3 years after the notice of violation be required to (A) obtain the signatures of 2 licensed health care professionals on every form purporting to give informed consent for the administration of a psychotropic medication, certifying the personal knowledge of each health care professional that the consent was obtained in compliance with the requirements of this subsection or (B) videotape or make a digital video record of the procedures followed by the facility to comply with the requirements of this subsection.

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/2-114 new)

Sec. 2-114. Unlawful discrimination. No resident shall be

subjected to unlawful discrimination as defined in Section 1-103 of the Illinois Human Rights Act by any owner, licensee, administrator, employee, or agent of a facility. Unlawful discrimination does not include an action by any owner, licensee, administrator, employee, or agent of a facility that is required by this Act or rules adopted under this Act.

(210 ILCS 47/2-115 new)

Sec. 2-115. Right to notification of violations. Residents and their guardians or other resident representatives, if any, shall be notified of any violation of this Act or the rules promulgated thereunder pursuant to Section 2-217 of this Act, or of violations of the requirements of Titles XVIII or XIX of the Social Security Act or rules promulgated thereunder, with respect to the health, safety, or welfare of the resident.

(210 ILCS 47/2-201.5)

Sec. 2-201.5. Screening prior to admission.

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

shall be administered through procedures established by administrative rule. Screening may be done by agencies other than the Department as established by administrative rule.

(a-1) Any screening shall also include an evaluation of whether there are residential supports and services or an array of community services that would enable the person to live in the community. The person shall be told about the existence of any such services that would enable the person to live safely and humanely in the least restrictive environment, that is appropriate, that the individual or guardian chooses, and the person shall be given the assistance necessary to avail himself or herself of any available services.

(b) In addition to the screening required by subsection (a), a facility shall, within 24 hours after admission, request a criminal history background check pursuant to the Uniform Conviction Information Act for all persons age 18 or older seeking admission to the facility. Background checks conducted pursuant to this Section shall be based on the resident's name, date of birth, and other identifiers as required by the Department of State Police. If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check, unless the fingerprint-based check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk which may be

established by Departmental rule. A waiver issued pursuant to this Section shall be valid only while the resident is immobile or while the criteria supporting the waiver exist. The facility shall provide for or arrange for any required fingerprint-based checks. If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident.

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

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

(2) Within 72 hours, arrange for a fingerprint-based criminal history record inquiry to be requested on the identified offender resident. The inquiry shall be based on the subject's name, sex, race, date of birth, fingerprint images, and other identifiers required by the Department of State Police. The inquiry shall be processed through the files of the Department of State Police and the Federal Bureau of Investigation to locate any criminal history record information that may exist regarding the subject. The Federal Bureau of Investigation shall furnish to the

Department of State Police, pursuant to an inquiry under this paragraph (2), any criminal history record information contained in its files. The facility shall comply with all applicable provisions contained in the Uniform Conviction Information Act. All name-based and fingerprint-based criminal history record inquiries shall be submitted to the Department of State Police electronically in the form and manner prescribed by the Department of State Police. The Department of State Police may charge the facility a fee for processing name-based and fingerprint-based criminal history record inquiries. The fee shall be deposited into the State Police Services Fund. The fee shall not exceed the actual cost of processing the inquiry.

~~identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of the Department's administrative rules adopted pursuant to Section 3-202.3.~~

(d) The Department shall develop and maintain a de-identified database of residents who have injured facility staff, facility visitors, or other residents, and the attendant circumstances, solely for the purposes of evaluating and improving resident pre-screening and assessment procedures (including the Criminal History Report prepared under Section 2-201.6 of this Act) and the adequacy of Department requirements concerning the provision of care and services to

residents. A resident shall not be listed in the database until a Department survey confirms the accuracy of the listing. The names of persons listed in the database and information that would allow them to be individually identified shall not be made public. Neither the Department nor any other agency of State government may use information in the database to take any action against any individual, licensee, or other entity unless the Department or agency receives the information independent of this subsection (d). All information collected, maintained, or developed under the authority of this subsection (d) for the purposes of the database maintained under this subsection (d) shall be treated in the same manner as information that is subject to Part 21 of Article VIII of the Code of Civil Procedure.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/2-201.6 new)

Sec. 2-201.6. Criminal History Report.

(a) The Department of State Police shall prepare a Criminal History Report when it receives information, through the criminal history background check required pursuant to subsection (c) of Section 2-201.5 or through any other means, that a resident of a facility is an identified offender.

(b) The Department of State Police shall complete the Criminal History Report within 10 business days after receiving any information described under subsection (a) of this Act that

a resident is an identified offender.

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

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

(2) An interview with the identified offender.

(3) A detailed summary of the entire criminal history of the offender, including arrests, convictions, and the date of the identified offender's last conviction relative to the date of admission to a long-term care facility.

(4) If the identified offender is a convicted or registered sex offender, then a review of any and all sex offender evaluations conducted on that offender. If there is no sex offender evaluation available, then the Department of State Police shall arrange, through the Department of Public Health, for a sex offender evaluation to be conducted on the identified offender. If the convicted or registered sex offender is under supervision by the Illinois Department of Corrections or a county probation department, then the sex offender evaluation shall be arranged by and at the expense of the supervising agency. All evaluations conducted on convicted or registered sex offenders under this Act shall be conducted by sex offender evaluators approved by the Sex Offender Management Board.

(d) The Department of State Police shall provide the

Criminal History Report to a licensed forensic psychologist. The licensed forensic psychologist shall prepare an Identified Offender Report and Recommendation after (i) consideration of the Criminal History Report, (ii) consultation with the facility administrator or the facility medical director, or both, regarding the mental and physical condition of the identified offender, and (iii) reviewing the facility's file on the identified offender, including all incident reports, all information regarding medication and medication compliance, and all information regarding previous discharges or transfers from other facilities. The Identified Offender Report and Recommendation shall detail whether and to what extent the identified offender's criminal history necessitates the implementation of security measures within the facility. If the identified offender is a convicted or registered sex offender, or if the Identified Offender Report and Recommendation reveals that the identified offender poses a significant risk of harm to others within the facility, then the offender shall be required to have his or her own room within the facility.

(e) The licensed forensic psychologist shall complete the Identified Offender Report and Recommendation within 14 business days after receiving the Criminal History Report and shall promptly provide the Identified Offender Report and Recommendation to the Department of State Police, which shall provide the Identified Offender Report and Recommendation to the following:

(1) The facility within which the identified offender resides.

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

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

(4) The Department of Public Health.

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

(g) The facility shall incorporate the Identified Offender Report and Recommendation into the identified offender's individual program plan created pursuant to 42 CFR 483.440(c).

(h) If, based on the Identified Offender Report and Recommendation, a facility determines that it cannot manage the identified offender resident safely within the facility, then it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402.

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

(210 ILCS 47/2-205)

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

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

(2) Records of license and certification inspections, surveys, and evaluations of facilities, other reports of inspections, surveys, and evaluations of resident care, whether a facility is designated a distressed facility and the basis for the designation, and reports concerning a facility prepared pursuant to Titles XVIII and XIX of the Social Security Act, subject to the provisions of the Social Security Act;

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

(4) Complaints filed against a facility and complaint investigation reports, except that a complaint or

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/2-208)

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

(a) A facility shall immediately notify the identified resident's next of kin, guardian, resident's representative, and physician of the resident's death or when the resident's death appears to be imminent. A facility shall immediately notify the Department by telephone of a resident's death within 24 hours after the resident's death. The facility shall notify the Department of the death of a facility's resident that does not occur in the facility immediately upon learning of the death. A facility shall promptly notify the coroner or medical examiner of a resident's death in a manner and form to be

determined by the Department after consultation with the coroner or medical examiner of the county in which the facility is located. In addition to notice to the Department by telephone, the Department shall require the facility to submit written notification of the death of a resident within 72 hours after the death, including a report of any medication errors or other incidents that occurred within 30 days of the resident's death. A facility's failure to comply with this Section shall constitute a Type "B" violation.

(b) A facility shall immediately notify the resident's next of kin, guardian, or resident representative of any unusual incident, abuse, or neglect involving the resident. A facility shall immediately notify the Department by telephone of any unusual incident, abuse, or neglect required to be reported pursuant to State law or administrative rule. In addition to notice to the Department by telephone, the Department shall require the facility to submit written notification of any unusual incident, abuse, or neglect within one day after the unusual incident, abuse, or neglect occurring. A facility's failure to comply with this Section shall constitute a Type "B" violation. For purposes of this Section, "unusual incident" means serious injury; unscheduled hospital visit for treatment of serious injury; 9-1-1 calls for emergency services directly relating to a resident threat; or stalking of staff or person served that raises health or safety concerns.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/2-217 new)

Sec. 2-217. Notification of violations. When the Department issues any notice pursuant to Section 3-119, 3-119.1, 3-301, 3-303, 3-307, or 3-702 of this Act or a notice of federal Medicaid certification deficiencies, the facility shall provide notification of the violations and deficiencies within 10 days after receiving a notice described within this Section to every resident and the resident's representative or guardian identified or referred to anywhere within the Department notice or the CMS 2567 as having received care or services that violated State or federal standards. The notification shall include a Department-prescribed notification letter as determined by rule and a copy of the notice and CMS 2567, if any, issued by the Department. A facility's failure to provide notification pursuant to this Section to a resident and the resident's representative or guardian, if any, shall constitute a Type "B" violation.

(210 ILCS 47/2-218 new)

Sec. 2-218. Minimum staffing in long-term care facilities for under age 22 residents. Facility staffing shall be based on all the needs of the residents and comply with Department rules as set forth under Section 3-202 of this Act. Facilities for under age 22 residents shall provide each resident, regardless of age, no less than 4.0 hours of nursing and

personal care time each day. The Department shall establish by rule the amount of registered or other licensed nurse and professional care time from the total 4.0 nursing and personal care time that shall be provided each day. A facility's failure to comply with this Section shall constitute a Type "B" violation.

(210 ILCS 47/3-109)

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

(1) That the individual applicant, or the corporation, partnership or other entity if the applicant is not an individual, is a person responsible and suitable to operate or to direct or participate in the operation of a facility by virtue of financial capacity, appropriate business or professional experience, a record of compliance with lawful orders of the Department and lack of revocation of a license during the previous 5 years and is not the owner of a facility designated pursuant to Section 3-304.2 as a distressed facility;

(2) That the facility is under the supervision of an administrator who is licensed, if required, under the Nursing Home Administrators Licensing and Disciplinary

Act, as now or hereafter amended; and

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-110)

Sec. 3-110. Contents and period of license.

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

The Department shall require the licensee to comply with the requirements of a court order issued under Section 3-515, as a condition of licensing.

(b) A license for a period of 2 years shall be issued to a

facility if the facility:

(1) has not received a Type "AA" violation within the last 12 months;

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

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

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

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

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

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

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

facility again meets the conditions in items (1) through (6) of this subsection.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-112)

Sec. 3-112. Transfer of ownership; license.

(a) Whenever ownership of a facility is transferred from the person named in the license to any other person, the transferee must obtain a new probationary license. The transferee shall notify the Department of the transfer and apply for a new license at least 30 days prior to final transfer. The Department may not approve the transfer of ownership to an owner of a facility designated pursuant to Section 3-304.2 of this Act as a distressed facility.

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-117)

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

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

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

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

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

(5) Revocation of a facility license during the previous 5 years, if such prior license was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant; or any affiliate of the individual applicant or controlling owner of the applicant and such individual applicant, controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior license; provided, however, that the denial of an application for a license pursuant to this subsection must be supported by evidence that such prior revocation renders the applicant unqualified or incapable of meeting or maintaining a facility in

accordance with the standards and rules promulgated by the Department under this Act.

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

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

(8) The applicant is the owner of a facility designated pursuant to Section 3-304.2 of this Act as a distressed facility.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-119)

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

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

(1) There has been a substantial failure to comply with this Act or the rules and regulations promulgated by the Department under this Act. A substantial failure by a

facility shall include, but not be limited to, any of the following:

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

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

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

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

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

(5) The facility is not under the direct supervision of a full time administrator, as defined by regulation, who is licensed, if required, under the Nursing Home

Administrators Licensing and Disciplinary Act.

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

(7) The facility has committed a Type "AA" violation while the facility is listed as a "distressed facility".

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

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

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

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

(2) Until otherwise ordered by the circuit court, nonrenewal is effective on the date of expiration of any existing license, or upon final action after hearing under Section 3-703, whichever is later; however, a license shall

not be deemed to have expired if the Department fails to timely respond to a timely request for renewal under this Act or for a hearing to contest nonrenewal under paragraph (c).

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-119.1 new)

Sec. 3-119.1. Ban on new admissions.

(a) Upon a finding by the Department that there has been a substantial failure to comply with this Act or the rules and regulations promulgated by the Department under this Act, including, without limitation, the circumstances set forth in subsection (a) of Section 3-119 of this Act, or if the Department otherwise finds that it would be in the public interest or the interest of the health, safety, and welfare of facility residents, the Department may impose a ban on new

admissions to any facility licensed under this Act. The ban shall continue until such time as the Department determines that the circumstances giving rise to the ban no longer exist.

(b) The Department shall provide notice to the facility and licensee of any ban imposed pursuant to subsection (a) of this Section. The notice shall provide a clear and concise statement of the circumstances on which the ban on new admissions is based and notice of the opportunity for a hearing. If the Department finds that the public interest or the health, safety, or welfare of facility residents imperatively requires immediate action and if the Department incorporates a finding to that effect in its notice, then the ban on new admissions may be ordered pending any hearing requested by the facility. Those proceedings shall be promptly instituted and determined. The Department shall promulgate rules defining the circumstances under which a ban on new admissions may be imposed.

(210 ILCS 47/3-202)

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

(1) Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety, and comfort of residents and their protection from

fire hazard;

(2) To the extent this Act has not established minimum staffing requirements within this Act, the numbers ~~Number~~ and qualifications of all personnel, including management and nursing personnel, having responsibility for any part of the care given to residents; specifically, the Department shall establish staffing ratios for facilities which shall specify the number of staff hours per resident of care that are needed for professional nursing care for various types of facilities or areas within facilities;

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

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

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

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

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

(8) Adequate accommodations, staff and services for the number and types of residents for whom the facility is licensed to care, including standards for temperature and

relative humidity within comfort zones determined by the Department based upon a combination of air temperature, relative humidity and air movement. Such standards shall also require facility plans that provide for health and comfort of residents at medical risk as determined by the attending physician whenever the temperature and relative humidity are outside such comfort zones established by the Department. The standards must include a requirement that areas of a facility used by residents of the facility be air-conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms;

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-202.2a new)

Sec. 3-202.2a. Comprehensive resident care plan. A

facility, with the participation of the resident and the resident's guardian or resident's representative, as applicable, must develop and implement a comprehensive care plan for each resident that includes measurable objectives and timetables to meet the resident's medical, nursing, mental health, psychosocial, and habilitation needs that are identified in the resident's comprehensive assessment that allows the resident to attain or maintain the highest practicable level of independent functioning and provide for discharge planning to the least restrictive setting based on the resident's care needs. The assessment shall be developed with the active participation of the resident and the resident's guardian or resident's representative, as applicable.

(210 ILCS 47/3-206)

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

(a) No person, except a volunteer who receives no compensation from a facility and is not included for the purpose of meeting any staffing requirements set forth by the Department, shall act as a nursing assistant, habilitation aide, or child care aide in a facility, nor shall any person, under any other title, not licensed, certified, or registered to render medical care by the Department of Financial and

Professional Regulation, assist with the personal, medical, or nursing care of residents in a facility, unless such person meets the following requirements:

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

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

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

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

(5) Begin a current course of training for nursing assistants, habilitation aides, or child care aides, approved by the Department, within 45 days of initial employment in the capacity of a nursing assistant, habilitation aide, or child care aide at any facility. Such courses of training shall be successfully completed within 120 days of initial employment in the capacity of nursing assistant, habilitation aide, or child care aide at a facility. Nursing assistants, habilitation aides, and child care aides who are enrolled in approved courses in community colleges or other educational institutions on a term, semester or trimester basis, shall be exempt from the

120-day completion time limit. The Department shall adopt rules for such courses of training. These rules shall include procedures for facilities to carry on an approved course of training within the facility.

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

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

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

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

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

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

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

(c) It is unlawful for any facility to employ any person in the capacity of nursing assistant, habilitation aide, or child care aide, or under any other title, not licensed by the State

of Illinois to assist in the personal, medical, or nursing care of residents in such facility unless such person has complied with this Section.

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

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

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

(g) Each skilled nursing and intermediate care facility that admits persons who are diagnosed as having Alzheimer's disease or related dementias shall require all nursing assistants, habilitation aides, or child care aides, who did not receive 12 hours of training in the care and treatment of such residents during the training required under paragraph (5) of subsection (a), to obtain 12 hours of in house training in the care and treatment of such residents. If the facility does not provide the training in house, the training shall be

obtained from other facilities, community colleges or other educational institutions that have a recognized course for such training. The Department shall, by rule, establish a recognized course for such training.

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-206.01)

Sec. 3-206.01. Health care worker registry.

(a) The Department shall establish and maintain a registry

of all individuals who (i) have satisfactorily completed the training required by Section 3-206, (ii) have begun a current course of training as set forth in Section 3-206, or (iii) are otherwise acting as a nursing assistant, habilitation aide, home health aide, or child care aide. The registry shall include the individual's name of the nursing assistant, habilitation aide, or child care aide, his or her current address, Social Security number, and whether the individual has any of the disqualifying convictions listed in Section 25 of the Health Care Worker Background Check Act from the date and location of the training course completed by the individual, and the date of the individual's last criminal records check. Any individual placed on the registry is required to inform the Department of any change of address within 30 days. A facility shall not employ an individual as a nursing assistant, habilitation aide, home health aide, or child care aide, or newly hired as an individual who may have access to a resident, a resident's living quarters, or a resident's personal, financial, or medical records, unless the facility has inquired of the Department's health care worker registry ~~Department~~ as to information in the registry concerning the individual. The facility and shall not employ an individual as a nursing assistant, habilitation aide, or child care aide if that individual is anyone not on the registry unless the individual is enrolled in a training program under paragraph (5) of subsection (a) of Section 3-206 of this Act.

If the Department finds that a nursing assistant, habilitation aide, home health aide, ~~or~~ child care aide, or an unlicensed individual, has abused or neglected a resident or an individual under his or her care, ~~neglected a resident~~, or misappropriated ~~resident~~ property of a resident or an individual under his or her care in a facility, the Department shall notify the individual of this finding by certified mail sent to the address contained in the registry. The notice shall give the individual an opportunity to contest the finding in a hearing before the Department or to submit a written response to the findings in lieu of requesting a hearing. If, after a hearing or if the individual does not request a hearing, the Department finds that the individual abused a resident, neglected a resident, or misappropriated resident property in a facility, the finding shall be included as part of the registry as well as a clear and accurate summary ~~brief~~ statement from the individual, if he or she chooses to make such a statement. The Department shall make the following information in the registry available to the public: an individual's full name; the date an individual successfully completed a nurse aide training or competency evaluation; and whether the Department has made a finding that an individual has been guilty of abuse or neglect of a resident or misappropriation of resident's property. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of the

individual's ~~any~~ statement in the registry relating to the finding or a clear and accurate summary of the statement.

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-206.02)

Sec. 3-206.02. Designation on registry for offense.

(a) The Department, after notice to the nursing assistant, habilitation aide, home health aide, or child care aide, may designate that the Department has found any of the following:

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

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

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

(4) The nursing assistant, habilitation aide, home health aide, or child care aide has been convicted of (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) any crime that is directly related

to the duties of a nursing assistant, habilitation aide, or child care aide.

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

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

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

(d) At any time after the designation on the registry pursuant to subsection (a), (b), or (c) of this Section, a nursing assistant, habilitation aide, home health aide, or child care aide may petition the Department for removal of a designation of neglect on the registry. The Department may remove the designation of neglect of the nursing assistant, habilitation aide, home health aide, or child care aide on the registry unless, after an investigation and a hearing, the Department determines that removal of designation is not in the

public interest.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-206.04 new)

Sec. 3-206.04. Registry checks for employees.

(a) Within 60 days after the effective date of this amendatory Act of the 97th General Assembly, the Department shall require all facilities to conduct required registry checks on employees at the time of hire and annually thereafter during employment. The required registries to be checked are the Health Care Worker Registry, the Department of Children and Family Services' State Central Register, and the Illinois Sex Offender Registry. A person may not be employed if he or she is found to have disqualifying convictions or substantiated cases of abuse or neglect. At the time of the annual registry checks, if a current employee's name has been placed on a registry with disqualifying convictions or disqualifying substantiated cases of abuse or neglect, then the employee must be terminated. Disqualifying convictions or disqualifying substantiated cases of abuse or neglect are defined for the Department of Children and Family Services Central Register by the Department of Children and Family Services' standards for background checks in Part 385 of Title 89 of the Illinois Administrative Code. Disqualifying convictions or disqualifying substantiated cases of abuse or neglect are defined for the Health Care Worker Registry by the Health Care Worker Background Check Act and

within this Act. A facility's failure to conduct the required registry checks will constitute a Type "B" violation.

(b) In collaboration with the Department of Children and Family Services and the Department of Human Services, the Department shall establish a waiver process from the prohibition of employment or termination of employment requirements in subsection (a) of this Section for any applicant or employee listed under the Department of Children and Family Services' State Central Register seeking to be hired or maintain his or her employment with a facility under this Act. The waiver process for applicants and employees outlined under Section 40 of the Health Care Worker Background Check Act shall remain in effect for individuals listed on the Health Care Worker Registry.

(210 ILCS 47/3-212)

Sec. 3-212. Inspection of facility by Department; report.

(a) The Department, whenever it deems necessary in accordance with subsection (b), shall inspect, survey and evaluate every facility to determine compliance with applicable licensure requirements and standards. Submission of a facility's current Consumer Choice Information Report required by Section 2-214 shall be verified at the time of inspection. An inspection should occur within 120 days prior to license renewal. The Department may periodically visit a facility for the purpose of consultation. An inspection,

survey, or evaluation, other than an inspection of financial records, shall be conducted without prior notice to the facility. A visit for the sole purpose of consultation may be announced. The Department shall provide training to surveyors about the appropriate assessment, care planning, and care of persons with mental illness (other than Alzheimer's disease or related disorders) to enable its surveyors to determine whether a facility is complying with State and federal requirements about the assessment, care planning, and care of those persons.

(a-1) An employee of a State or unit of local government agency charged with inspecting, surveying, and evaluating facilities who directly or indirectly gives prior notice of an inspection, survey, or evaluation, other than an inspection of financial records, to a facility or to an employee of a facility is guilty of a Class A misdemeanor. An inspector or an employee of the Department who intentionally prenotifies a facility, orally or in writing, of a pending complaint investigation or inspection shall be guilty of a Class A misdemeanor. Superiors of persons who have prenotified a facility shall be subject to the same penalties, if they have knowingly allowed the prenotification. A person found guilty of prenotifying a facility shall be subject to disciplinary action by his or her employer. If the Department has a good faith belief, based upon information that comes to its attention, that a violation of this subsection has occurred, it must file a complaint with the Attorney General or the State's Attorney

in the county where the violation took place within 30 days after discovery of the information.

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

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

(b-1) The Department shall not be required to determine whether a facility certified to participate in the Medicare program under Title XVIII of the Social Security Act, or the Medicaid program under Title XIX of the Social Security Act,

and which the Department determines by inspection under this Section or under Section 3-702 of this Act to be in compliance with the certification requirements of Title XVIII or XIX, is in compliance with any requirement of this Act that is less stringent than or duplicates a federal certification requirement. In accordance with subsection (a) of this Section or subsection (d) of Section 3-702, the Department shall determine whether a certified facility is in compliance with requirements of this Act that exceed federal certification requirements. If a certified facility is found to be out of compliance with federal certification requirements, the results of an inspection conducted pursuant to Title XVIII or XIX of the Social Security Act may be used as the basis for enforcement remedies authorized and commenced, with the Department's discretion to evaluate whether penalties are warranted, under this Act. Enforcement of this Act against a certified facility shall be commenced pursuant to the requirements of this Act, unless enforcement remedies sought pursuant to Title XVIII or XIX of the Social Security Act exceed those authorized by this Act. As used in this subsection, "enforcement remedy" means a sanction for violating a federal certification requirement or this Act.

(c) Upon completion of each inspection, survey and evaluation, the appropriate Department personnel who conducted the inspection, survey or evaluation shall submit a copy of their report to the licensee upon exiting the facility, and

shall submit the actual report to the appropriate regional office of the Department. Such report and any recommendations for action by the Department under this Act shall be transmitted to the appropriate offices of the associate director of the Department, together with related comments or documentation provided by the licensee which may refute findings in the report, which explain extenuating circumstances that the facility could not reasonably have prevented, or which indicate methods and timetables for correction of deficiencies described in the report. Without affecting the application of subsection (a) of Section 3-303, any documentation or comments of the licensee shall be provided within 10 days of receipt of the copy of the report. Such report shall recommend to the Director appropriate action under this Act with respect to findings against a facility. The Director shall then determine whether the report's findings constitute a violation or violations of which the facility must be given notice. Such determination shall be based upon the severity of the finding, the danger posed to resident health and safety, the comments and documentation provided by the facility, the diligence and efforts to correct deficiencies, correction of the reported deficiencies, the frequency and duration of similar findings in previous reports and the facility's general inspection history. The Department ~~Violations~~ shall determine violations ~~be determined~~ under this subsection no later than 90 ~~60~~ days after completion of each

inspection, survey and evaluation.

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-303)

Sec. 3-303. Correction of violations; hearing.

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

(b) At the time of issuance of a notice of a Type "B" violation, the Department shall request a plan of correction which is subject to the Department's approval. The facility shall have 10 days after receipt of notice of violation in which to prepare and submit a plan of correction. The Department may extend this period up to 30 days where correction involves substantial capital improvement. The plan shall include a fixed time period not in excess of 90 days within which violations are to be corrected. If the Department

rejects a plan of correction, it shall send notice of the rejection and the reason for the rejection to the facility. The facility shall have 10 days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the facility shall follow an approved plan of correction imposed by the Department.

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

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

(e) If a facility desires to contest any Department action under this Section it shall send a written request for a hearing under Section 3-703 to the Department within 10 days of receipt of notice of the contested action. The Department shall commence the hearing as provided under Section 3-703. Whenever possible, all action of the Department under this Section arising out of a violation shall be contested and determined at a single hearing. Issues decided after a hearing may not be

reheard at subsequent hearings under this Section.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-303.2)

Sec. 3-303.2. Administrative warning.

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

(b) If, however, the situation, condition or practice which resulted in the issuance of an administrative warning, with the exception of administrative warnings issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder, is not corrected by the next on site inspection by

the Department which occurs no earlier than 90 days from the issuance of the administrative warning, a written plan of correction must be submitted in the same manner as provided in subsection (b) of Section 3-303.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-304.1)

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

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

- (1) who regulates facilities licensed under this Act;
- (2) information in the possession of the Department that is listed in Sections 3-210 and 3-304;
- (3) deficiencies and plans of correction;
- (4) enforcement remedies;
- (5) penalty letters;
- (6) designation of penalty monies;
- (7) the U.S. Department of Health and Human Services' Health Care Financing Administration special projects or federally required inspections;
- (8) advisory standards;
- (9) deficiency free surveys; ~~and~~
- (10) enforcement actions and enforcement summaries; and

(11) distressed facilities.

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

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-304.2 new)

Sec. 3-304.2. Designation of distressed facilities.

(a) The Department shall, by rule, adopt criteria to identify facilities that are distressed and shall publish this list quarterly. No facility shall be identified as a distressed facility unless it has committed violations or deficiencies that have actually harmed residents.

(b) The Department shall notify each facility and licensee of its distressed designation and of the calculation on which it is based.

(c) A distressed facility may contract with an independent consultant meeting criteria established by the Department. If the distressed facility does not seek the assistance of an independent consultant, then the Department shall place a monitor or a temporary manager in the facility, depending on

the Department's assessment of the condition of the facility.

(d) A facility that has been designated a distressed facility may contract with an independent consultant to develop and assist in the implementation of a plan of improvement to bring and keep the facility in compliance with this Act and, if applicable, with federal certification requirements. A facility that contracts with an independent consultant shall have 90 days to develop a plan of improvement and demonstrate a good faith effort at implementation, and another 90 days to achieve compliance and take whatever additional actions are called for in the improvement plan to maintain compliance in this subsection (d). "Independent" consultant means an individual who has no professional or financial relationship with the facility, any person with a reportable ownership interest in the facility, or any related parties. In this subsection (d), "related parties" has the meaning attributed to it in the instructions for completing Medicaid cost reports.

(e) A distressed facility that does not contract with a consultant shall be assigned a monitor or a temporary manager at the Department's discretion. The cost of the temporary manager shall be paid by the Department. The authority afforded the temporary manager shall be determined through rulemaking.

If a distressed facility that contracts with an independent consultant but does not, in a timely manner, develop an adequate plan of improvement or comply with the plan of improvement, then the Department may place a monitor in the

facility.

Nothing in this Section shall limit the authority of the Department to place a monitor in a distressed facility if otherwise justified by law.

(f) The Department shall by rule establish a mentor program for owners of distressed facilities. That a mentor program does not exist, or that a mentor is not available to assist a distressed facility, shall not delay or prevent the imposition of any penalties on a distressed facility, authorized by this Act.

(210 ILCS 47/3-305)

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

(1) ~~A Unless a greater penalty or fine is allowed under subsection (3),~~ a licensee who commits a Type "AA" "A" violation as defined in Section 1-128.5 ~~1-129~~ is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine of up to \$25,000 per violation. For a facility licensed to provide care to fewer than 100 residents, but no less than 17 residents, the fine shall be up to \$18,500 per violation. For a facility licensed to provide care to fewer than 17 residents, the fine shall be

~~up to \$12,500 per violation. computed at a rate of \$5.00 per resident in the facility plus 20 cents per resident for each day of the violation, commencing on the date a notice of the violation is served under Section 3-301 and ending on the date the violation is corrected, or a fine of not less than \$5,000, or when death, serious mental or physical harm, permanent disability, or disfigurement results, a fine of not less than \$10,000, whichever is greater.~~

(1.5) A licensee who commits a Type "A" violation as defined in Section 1-129 is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine of up to \$12,500 per violation. For a facility licensed to provide care to fewer than 100 residents, but no less than 17 residents, the fine shall be up to \$10,000 per violation. For a facility licensed to provide care to fewer than 17 residents, the fine shall be up to \$6,250 per violation.

(2) A licensee who commits a Type "B" violation as defined in Section 1-130 shall be assessed a fine of up to \$1,100 per violation. For a facility licensed to provide care to fewer than 100 residents, but no less than 17 residents, the fine shall be up to \$750 per violation. For a facility licensed to provide care to fewer than 17 residents, the fine shall be up to \$550 per violation. ~~or who is issued an administrative warning for a violation of~~

~~Sections 3-401 through 3-413 or the rules promulgated thereunder is subject to a penalty computed at a rate of \$3 per resident in the facility, plus 15 cents per resident for each day of the violation, commencing on the date a notice of the violation is served under Section 3-301 and ending on the date the violation is corrected, or a fine not less than \$500, whichever is greater. Such fine shall be assessed on the date of notice of the violation and shall be suspended for violations that continue after such date upon completion of a plan of correction in accordance with Section 3-308 in relation to the assessment of fines and correction. Failure to correct such violation within the time period approved under a plan of correction shall result in a fine and conditional license as provided under subsection (5).~~

(2.5) A licensee who commits 8 or more Type "C" violations as defined in Section 1-132 in a single survey shall be assessed a fine of up to \$250 per violation. A facility licensed to provide care to fewer than 100 residents, but no less than 17 residents, that commits 8 or more Type "C" violations in a single survey, shall be assessed a fine of up to \$200 per violation. A facility licensed to provide care to fewer than 17 residents, that commits 8 or more Type "C" violations in a single survey, shall be assessed a fine of up to \$175 per violation.

(3) A licensee who commits a Type "AA" or Type "A"

violation as defined in Section 1-128.5 or 1-129 which continues beyond the time specified in paragraph (a) of Section 3-303 which is cited as a repeat violation shall have its license revoked and shall be assessed a fine of 3 times the fine computed ~~per resident per day~~ under subsection (1).

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

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

(6) When the Department finds that a provision of Article II has been violated with regard to a particular resident, the Department shall issue an order requiring the facility to reimburse the resident for injuries incurred,

or \$100, whichever is greater. In the case of a violation involving any action other than theft of money belonging to a resident, reimbursement shall be ordered only if a provision of Article II has been violated with regard to that or any other resident of the facility within the 2 years immediately preceding the violation in question.

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

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

(9) If any facility willfully makes a misstatement of fact to the Department or willfully fails to make a required notification to the Department and that misstatement or failure delays the start of a survey or

impedes a survey, then it will constitute a Type "B" violation. The minimum and maximum fines that may be assessed pursuant to this subsection (9) shall be 3 times those otherwise specified for any facility.

(10) If the Department finds that a facility has violated a provision of the Illinois Administrative Code that has a high-risk designation or that a facility has violated the same provision of the Illinois Administrative Code 3 or more times in the previous 12 months, then the Department may assess a fine of up to 2 times the maximum fine otherwise allowed.

(Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(210 ILCS 47/3-306)

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

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

(2) The reasonable diligence exercised by the licensee

and efforts to correct violations;

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-308)

Sec. 3-308. Time of assessment; plan of correction. In the case of a Type "AA" or Type "A" violation, a penalty may be assessed from the date on which the violation is discovered. In the case of a Type "B" or Type "C" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder, the facility shall submit a plan of correction as provided in Section 3-303. In the case of a Type "B" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder, a penalty shall be assessed on the date of notice of the violation, but the Director may reduce the amount or waive such payment for any of the following reasons:

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

(b) The facility submits a plan of correction within 10 days and subsequently submits a true report of correction within 15 days thereafter;

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

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

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

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

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

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

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

period specified in the approved plan of correction.

If a good faith plan of correction is not received within the time provided by Section 3-303, a penalty may be assessed from the date of the notice of the Type "B" or "C" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder served under Section 3-301 until the date of the receipt of a good faith plan of correction, or until the date the violation is corrected, whichever is earlier. If a violation is not corrected within the time specified by an approved plan of correction or any lawful extension thereof, a penalty may be assessed from the date of notice of the violation, until the date the violation is corrected.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-309)

Sec. 3-309. Contesting assessment of penalty. A facility may contest an assessment of a penalty by sending a written request to the Department for hearing under Section 3-703. Upon receipt of the request the Department shall hold a hearing as provided under Section 3-703. Instead of requesting a hearing pursuant to Section 3-703, a facility may, within 10 business days after receipt of the notice of violation and fine assessment, transmit to the Department 65% of the amount assessed for each violation specified in the penalty assessment.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-310)

Sec. 3-310. Collection of penalties. All penalties shall be paid to the Department within 10 days of receipt of notice of assessment or, if the penalty is contested under Section 3-309, within 10 days of receipt of the final decision, unless the decision is appealed and the order is stayed by court order under Section 3-713. A facility choosing to waive the right to a hearing under Section 3-309 shall submit a payment totaling 65% of the original fine amount along with the written waiver. A penalty assessed under this Act shall be collected by the Department and shall be deposited with the State Treasurer into the Long Term Care Monitor/Receiver Fund. If the person or facility against whom a penalty has been assessed does not comply with a written demand for payment within 30 days, the Director shall issue an order to do any of the following:

(1) Direct the State Treasurer or Comptroller to deduct the amount of the fine from amounts otherwise due from the State for the penalty, including any payments to be made from the Developmentally Disabled Care Provider Fund established under Section 5C-7 of the Illinois Public Aid Code, and remit that amount to the Department;

(2) Add the amount of the penalty to the facility's licensing fee; if the licensee refuses to make the payment at the time of application for renewal of its license, the

license shall not be renewed; or

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

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

(Source: P.A. 96-339, eff. 7-1-10; revised 10-19-10.)

(210 ILCS 47/3-318)

Sec. 3-318. Business offenses.

(a) No person shall:

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

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

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

(4) Intentionally prevent or interfere with the

preservation of evidence pertaining to any violation of this Act or the rules promulgated under this Act;

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

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

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

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-402)

Sec. 3-402. Notice of involuntary transfer or discharge. Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required under Section 3-408 and by a minimum written notice of 21 days, except in one

of the following instances:

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-501)

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

(a) The facility is operating without a license;

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

(c) The facility is closing or has informed the Department that it intends to close and adequate arrangements for

relocation of residents have not been made at least 30 days prior to closure;

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

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

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

(g) At the discretion of the Department when a review of facility compliance history, incident reports, or reports of financial problems raises a concern that a threat to resident health, safety, or welfare exists.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-502)

Sec. 3-502. Placement of monitor by Department. In any situation described in Section 3-501, the Department may place a qualified person to act as monitor in the facility. The monitor shall observe operation of the facility, assist the facility by advising it on how to comply with the State regulations, and shall report periodically to the Department on the operation of the facility. Once a monitor has been placed, the Department may retain the monitor until it is satisfied that the basis for the placement is resolved and the threat to the health, safety, or welfare of a resident is not likely to recur.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-504)

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

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

(a) The facility is operating without a license;

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

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

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

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-703)

Sec. 3-703. Hearing to contest decision; applicable provisions. Any person requesting a hearing pursuant to Sections 2-110, 3-115, 3-118, 3-119, 3-119.1, 3-301, 3-303, 3-309, 3-410, 3-422 or 3-702 to contest a decision rendered in a particular case may have such decision reviewed in accordance with Sections 3-703 through 3-712.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-712)

Sec. 3-712. Certification of record; fee. The Department

shall not be required to certify any record or file any answer or otherwise appear in any proceeding for judicial review under Section 3-713 of this Act unless there is filed with the party filing the complaint a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which cost shall be computed at the rate of 95 cents per page of such record ~~deposits with the clerk of the court the sum of 95 cents per page, representing the costs of such certification.~~ Failure on the part of the plaintiff to file such receipt in Court ~~make such deposit~~ shall be grounds for dismissal of the action; provided, however, that persons proceeding in forma pauperis with the approval of the circuit court shall not be required to pay these fees.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-808 new)

Sec. 3-808. Protocol for sexual assault victims; MR/DD facility. The Department shall develop a protocol for the care and treatment of residents who have been sexually assaulted in a MR/DD facility or elsewhere.

(210 ILCS 47/3-808.5 new)

Sec. 3-808.5. Facility fraud, abuse, or neglect prevention and reporting.

(a) A facility licensed to provide care to 17 or more residents that receives Medicaid funding shall prominently

display in its lobby, in its dining areas, and on each floor of the facility information approved by the Illinois Medicaid Fraud Control Unit on how to report fraud, abuse, and neglect. A facility licensed to provide care to fewer than 17 residents that receives Medicaid funding shall prominently display in the facility so as to be easily seen by all residents, visitors, and employees information approved by the Illinois Medicaid Fraud Control Unit on how to report fraud, abuse, and neglect. In addition, information regarding the reporting of fraud, abuse, and neglect shall be provided to each resident at the time of admission and to the resident's guardian or resident's representative.

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

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

(d) Any person with an ownership interest in a facility licensed by the Department must, within 30 days after the effective date of this amendatory Act of the 97th General Assembly, disclose the existence of any ownership interest in any vendor who does business with the facility. The disclosures required by this subsection (d) shall be made in the form and manner prescribed by the Department. Licensed facilities that receive Medicaid funding shall submit a copy of the disclosures required by this subsection (d) to the Illinois Medicaid Fraud Control Unit. The owners and licensee of a facility shall maintain all records necessary to show compliance with this disclosure requirement.

(e) Notwithstanding the provisions of Section 3-318 of this Act and in addition thereto, any person, owner, or licensee who willfully fails to keep and maintain, or willfully fails to

produce for inspection, books and records, or willfully fails to make the disclosures required by this Section, is guilty of a Class A misdemeanor. A second or subsequent violation of this Section shall be punishable as a Class 4 felony.

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

(210 ILCS 47/3-809 new)

Sec. 3-809. Rules to implement changes. In developing rules and regulations to implement changes made by this amendatory Act of the 97th General Assembly, the Department shall seek the input of advocates for facility residents, representatives of associations representing facilities, and representatives of associations representing employees of facilities.

(210 ILCS 47/3-810 new)

Sec. 3-810. Whistleblower protection.

(a) In this Section, "retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any employee of a facility that is taken in retaliation for the employee's involvement in a protected activity as set forth in paragraphs (1), (2), and (3) of

subsection (b) of this Section.

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

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

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

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

(c) A violation of this Section may be established only upon a finding that (1) the employee of the facility engaged in conduct described in subsection (b) of this Section and (2) this conduct was a contributing factor in the retaliatory action alleged by the employee. There is no violation of this Section, however, if the facility demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of that conduct.

(d) The employee of the facility may be awarded all remedies necessary to make the employee whole and to prevent future violations of this Section. Remedies imposed by the

court may include, but are not limited to, all of the following:

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

(2) Two times the amount of back pay.

(3) Interest on the back pay.

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

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

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

Section 90-115. The Home Health, Home Services, and Home Nursing Agency Licensing Act is amended by changing Section 2.08 as follows:

(210 ILCS 55/2.08)

Sec. 2.08. "Home services agency" means an agency that provides services directly, or acts as a placement agency, for the purpose of placing individuals as workers providing home services for consumers in their personal residences. "Home services agency" does not include agencies licensed under the Nurse Agency Licensing Act, the Hospital Licensing Act, the

Nursing Home Care Act, the MR/DD Community Care Act, the Specialized Mental Health Rehabilitation Act, or the Assisted Living and Shared Housing Act and does not include an agency that limits its business exclusively to providing housecleaning services. Programs providing services exclusively through the Community Care Program of the Illinois Department on Aging, the Department of Human Services Office of Rehabilitation Services, or the United States Department of Veterans Affairs are not considered to be a home services agency under this Act.

(Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09; 96-1000, eff. 7-2-10.)

Section 90-120. The Hospice Program Licensing Act is amended by changing Sections 3 and 4 as follows:

(210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Bereavement" means the period of time during which the hospice patient's family experiences and adjusts to the death of the hospice patient.

(a-5) "Bereavement services" means counseling services provided to an individual's family after the individual's death.

(a-10) "Attending physician" means a physician who:

(1) is a doctor of medicine or osteopathy; and

(2) is identified by an individual, at the time the individual elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

(b) "Department" means the Illinois Department of Public Health.

(c) "Director" means the Director of the Illinois Department of Public Health.

(d) "Hospice care" means a program of palliative care that provides for the physical, emotional, and spiritual care needs of a terminally ill patient and his or her family. The goal of such care is to achieve the highest quality of life as defined by the patient and his or her family through the relief of suffering and control of symptoms.

(e) "Hospice care team" means an interdisciplinary group or groups composed of individuals who provide or supervise the care and services offered by the hospice.

(f) "Hospice patient" means a terminally ill person receiving hospice services.

(g) "Hospice patient's family" means a hospice patient's immediate family consisting of a spouse, sibling, child, parent and those individuals designated as such by the patient for the purposes of this Act.

(g-1) "Hospice residence" means a separately licensed home, apartment building, or similar building providing living

quarters:

(1) that is owned or operated by a person licensed to operate as a comprehensive hospice; and

(2) at which hospice services are provided to facility residents.

A building that is licensed under the Hospital Licensing Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act is not a hospice residence.

(h) "Hospice services" means a range of professional and other supportive services provided to a hospice patient and his or her family. These services may include, but are not limited to, physician services, nursing services, medical social work services, spiritual counseling services, bereavement services, and volunteer services.

(h-5) "Hospice program" means a licensed public agency or private organization, or a subdivision of either of those, that is primarily engaged in providing care to terminally ill individuals through a program of home care or inpatient care, or both home care and inpatient care, utilizing a medically directed interdisciplinary hospice care team of professionals or volunteers, or both professionals and volunteers. A hospice program may be licensed as a comprehensive hospice program or a volunteer hospice program.

(h-10) "Comprehensive hospice" means a program that provides hospice services and meets the minimum standards for

certification under the Medicare program set forth in the Conditions of Participation in 42 CFR Part 418 but is not required to be Medicare-certified.

(i) "Palliative care" means the management of pain and other distressing symptoms that incorporates medical, nursing, psychosocial, and spiritual care according to the needs, values, beliefs, and culture or cultures of the patient and his or her family. The evaluation and treatment is patient-centered, with a focus on the central role of the family unit in decision-making.

(j) "Hospice service plan" means a plan detailing the specific hospice services offered by a comprehensive or volunteer hospice program, and the administrative and direct care personnel responsible for those services. The plan shall include but not be limited to:

(1) Identification of the person or persons administratively responsible for the program.

(2) The estimated average monthly patient census.

(3) The proposed geographic area the hospice will serve.

(4) A listing of those hospice services provided directly by the hospice, and those hospice services provided indirectly through a contractual agreement.

(5) The name and qualifications of those persons or entities under contract to provide indirect hospice services.

(6) The name and qualifications of those persons providing direct hospice services, with the exception of volunteers.

(7) A description of how the hospice plans to utilize volunteers in the provision of hospice services.

(8) A description of the program's record keeping system.

(k) "Terminally ill" means a medical prognosis by a physician licensed to practice medicine in all of its branches that a patient has an anticipated life expectancy of one year or less.

(l) "Volunteer" means a person who offers his or her services to a hospice without compensation. Reimbursement for a volunteer's expenses in providing hospice service shall not be considered compensation.

(l-5) "Employee" means a paid or unpaid member of the staff of a hospice program, or, if the hospice program is a subdivision of an agency or organization, of the agency or organization, who is appropriately trained and assigned to the hospice program. "Employee" also means a volunteer whose duties are prescribed by the hospice program and whose performance of those duties is supervised by the hospice program.

(l-10) "Representative" means an individual who has been authorized under State law to terminate an individual's medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or

physically incapacitated.

(m) "Volunteer hospice" means a program which provides hospice services to patients regardless of their ability to pay, with emphasis on the utilization of volunteers to provide services, under the administration of a not-for-profit agency. This definition does not prohibit the employment of staff.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

Sec. 4. License.

(a) No person shall establish, conduct or maintain a comprehensive or volunteer hospice program without first obtaining a license from the Department. A hospice residence may be operated only at the locations listed on the license. A comprehensive hospice program owning or operating a hospice residence is not subject to the provisions of the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act in owning or operating a hospice residence.

(b) No public or private agency shall advertise or present itself to the public as a comprehensive or volunteer hospice program which provides hospice services without meeting the provisions of subsection (a).

(c) The license shall be valid only in the possession of the hospice to which it was originally issued and shall not be transferred or assigned to any other person, agency, or

corporation.

(d) The license shall be renewed annually.

(e) The license shall be displayed in a conspicuous place inside the hospice program office.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-125. The Hospital Licensing Act is amended by changing Sections 3, 7, and 6.09 and by adding Section 6.09a as follows:

(210 ILCS 85/3)

Sec. 3. As used in this Act:

(A) "Hospital" means any institution, place, building, buildings on a campus, or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of 2 or more unrelated persons admitted for overnight stay or longer in order to obtain medical, including obstetric, psychiatric and nursing, care of illness, disease, injury, infirmity, or deformity.

The term "hospital", without regard to length of stay, shall also include:

(a) any facility which is devoted primarily to providing psychiatric and related services and programs for the diagnosis and treatment or care of 2 or more unrelated persons suffering from emotional or nervous

diseases;

(b) all places where pregnant females are received, cared for, or treated during delivery irrespective of the number of patients received.

The term "hospital" includes general and specialized hospitals, tuberculosis sanitarium, mental or psychiatric hospitals and sanitarium, and includes maternity homes, lying-in homes, and homes for unwed mothers in which care is given during delivery.

The term "hospital" does not include:

(1) any person or institution required to be licensed pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act;

(2) hospitalization or care facilities maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitalization or care facilities under its management and control;

(3) hospitalization or care facilities maintained by the federal government or agencies thereof;

(4) hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation;

(5) any person or facility required to be licensed

pursuant to the Alcoholism and Other Drug Abuse and Dependency Act;

(6) any facility operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination;

(7) an Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or

(8) any veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under the Veterinary Medicine and Surgery Practice Act of 2004 or maintained by a State-supported or publicly funded university or college.

(B) "Person" means the State, and any political subdivision or municipal corporation, individual, firm, partnership, corporation, company, association, or joint stock association, or the legal successor thereof.

(C) "Department" means the Department of Public Health of the State of Illinois.

(D) "Director" means the Director of Public Health of the State of Illinois.

(E) "Perinatal" means the period of time between the conception of an infant and the end of the first month after birth.

(F) "Federally designated organ procurement agency" means

the organ procurement agency designated by the Secretary of the U.S. Department of Health and Human Services for the service area in which a hospital is located; except that in the case of a hospital located in a county adjacent to Wisconsin which currently contracts with an organ procurement agency located in Wisconsin that is not the organ procurement agency designated by the U.S. Secretary of Health and Human Services for the service area in which the hospital is located, if the hospital applies for a waiver pursuant to 42 USC 1320b-8(a), it may designate an organ procurement agency located in Wisconsin to be thereafter deemed its federally designated organ procurement agency for the purposes of this Act.

(G) "Tissue bank" means any facility or program operating in Illinois that is certified by the American Association of Tissue Banks or the Eye Bank Association of America and is involved in procuring, furnishing, donating, or distributing corneas, bones, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them into the human body. "Tissue bank" does not include a licensed blood bank. For the purposes of this Act, "tissue" does not include organs.

(H) "Campus", as this term applies to operations, has the same meaning as the term "campus" as set forth in federal Medicare regulations, 42 CFR 413.65.

(Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

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

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

(b) Every hospital shall develop procedures for a physician with medical staff privileges at the hospital or any appropriate medical staff member to provide the discharge notice prescribed in subsection (a) of this Section. The procedures must include prohibitions against discharging or referring a patient to any of the following if unlicensed, uncertified, or unregistered: (i) a board and care facility, as defined in the Board and Care Home Act; (ii) an assisted living and shared housing establishment, as defined in the Assisted Living and Shared Housing Act; (iii) a facility licensed under

the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act; (iv) a supportive living facility, as defined in Section 5-5.01a of the Illinois Public Aid Code; or (v) a free-standing hospice facility licensed under the Hospice Program Licensing Act if licensure, certification, or registration is required. The Department of Public Health shall annually provide hospitals with a list of licensed, certified, or registered board and care facilities, assisted living and shared housing establishments, nursing homes, supportive living facilities, facilities licensed under the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act, and hospice facilities. Reliance upon this list by a hospital shall satisfy compliance with this requirement. The procedure may also include a waiver for any case in which a discharge notice is not feasible due to a short length of stay in the hospital by the patient, or for any case in which the patient voluntarily desires to leave the hospital before the expiration of the 24 hour period.

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

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

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

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

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

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

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

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

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

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

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

(Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

(210 ILCS 85/6.09a new)

Sec. 6.09a. Report of Death. Every hospital shall promptly report the death of a person readily known to be, without an investigation by the hospital, a resident of a facility licensed under the MR/DD Community Care Act, to the coroner or medical examiner. The coroner or medical examiner shall promptly respond to the report by accepting or not accepting the body for investigation.

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

Sec. 7. (a) The Director after notice and opportunity for hearing to the applicant or licensee may deny, suspend, or revoke a permit to establish a hospital or deny, suspend, or revoke a license to open, conduct, operate, and maintain a hospital in any case in which he finds that there has been a substantial failure to comply with the provisions of this Act, the Hospital Report Card Act, or the Illinois Adverse Health

Care Events Reporting Law of 2005 or the standards, rules, and regulations established by virtue of any of those Acts. The Department may impose fines on hospitals, not to exceed \$500 per occurrence, for failing to (1) initiate a criminal background check on a patient that meets the criteria for hospital-initiated background checks or (2) report the death of a person known to be a resident of a facility licensed under the MR/DD Community Care Act to the coroner or medical examiner within 24 hours as required by Section 6.09a of this Act. In assessing whether to impose such a fine for failure to initiate a criminal background check, the Department shall consider various factors including, but not limited to, whether the hospital has engaged in a pattern or practice of failing to initiate criminal background checks. Money from fines shall be deposited into the Long Term Care Provider Fund.

(b) Such notice shall be effected by registered mail or by personal service setting forth the particular reasons for the proposed action and fixing a date, not less than 15 days from the date of such mailing or service, at which time the applicant or licensee shall be given an opportunity for a hearing. Such hearing shall be conducted by the Director or by an employee of the Department designated in writing by the Director as Hearing Officer to conduct the hearing. On the basis of any such hearing, or upon default of the applicant or licensee, the Director shall make a determination specifying his findings and conclusions. In case of a denial to an

applicant of a permit to establish a hospital, such determination shall specify the subsection of Section 6 under which the permit was denied and shall contain findings of fact forming the basis of such denial. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision denying, suspending, or revoking a permit or a license shall become final 35 days after it is so mailed or served, unless the applicant or licensee, within such 35 day period, petitions for review pursuant to Section 13.

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

(d) The Director or Hearing Officer shall upon his own motion, or on the written request of any party to the proceeding, issue subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum

requiring the production of books, papers, records, or memoranda. All subpoenas and subpoenas duces tecum issued under the terms of this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the Circuit Court of this State, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Director, or Hearing Officer, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any other party to any such proceeding the Department may require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Department in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum issued as aforesaid shall be served in the same manner as a subpoena issued out of a court.

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

be compelled before the court.

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

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

Section 90-130. The Language Assistance Services Act is amended by changing Section 10 as follows:

(210 ILCS 87/10)

Sec. 10. Definitions. As used in this Act:

"Department" means the Department of Public Health.

"Interpreter" means a person fluent in English and in the necessary language of the patient who can accurately speak, read, and readily interpret the necessary second language, or a person who can accurately sign and read sign language. Interpreters shall have the ability to translate the names of body parts and to describe completely symptoms and injuries in both languages. Interpreters may include members of the medical or professional staff.

"Language or communication barriers" means either of the following:

(1) With respect to spoken language, barriers that are experienced by limited-English-speaking or non-English-speaking individuals who speak the same primary language, if those individuals constitute at least 5% of the patients served by the health facility annually.

(2) With respect to sign language, barriers that are experienced by individuals who are deaf and whose primary language is sign language.

"Health facility" means a hospital licensed under the Hospital Licensing Act, a long-term care facility licensed under the Nursing Home Care Act, or a facility licensed under the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-135. The Community-Integrated Living Arrangements Licensure and Certification Act is amended by changing Section 4 as follows:

(210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

Sec. 4. (a) Any community mental health or developmental services agency who wishes to develop and support a variety of community-integrated living arrangements may do so pursuant to a license issued by the Department under this Act. However, programs established under or otherwise subject to the Child Care Act of 1969, the Nursing Home Care Act, the Specialized

Mental Health Rehabilitation Act, or the MR/DD Community Care Act, as now or hereafter amended, shall remain subject thereto, and this Act shall not be construed to limit the application of those Acts.

(b) The system of licensure established under this Act shall be for the purposes of:

(1) Insuring that all recipients residing in community-integrated living arrangements are receiving appropriate community-based services, including treatment, training and habilitation or rehabilitation;

(2) Insuring that recipients' rights are protected and that all programs provided to and placements arranged for recipients comply with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations;

(3) Maintaining the integrity of communities by requiring regular monitoring and inspection of placements and other services provided in community-integrated living arrangements.

The licensure system shall be administered by a quality assurance unit within the Department which shall be administratively independent of units responsible for funding of agencies or community services.

(c) As a condition of being licensed by the Department as a community mental health or developmental services agency under this Act, the agency shall certify to the Department that:

(1) All recipients residing in community-integrated living arrangements are receiving appropriate community-based services, including treatment, training and habilitation or rehabilitation;

(2) All programs provided to and placements arranged for recipients are supervised by the agency; and

(3) All programs provided to and placements arranged for recipients comply with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations.

(d) An applicant for licensure as a community mental health or developmental services agency under this Act shall submit an application pursuant to the application process established by the Department by rule and shall pay an application fee in an amount established by the Department, which amount shall not be more than \$200.

(e) If an applicant meets the requirements established by the Department to be licensed as a community mental health or developmental services agency under this Act, after payment of the licensing fee, the Department shall issue a license valid for 3 years from the date thereof unless suspended or revoked by the Department or voluntarily surrendered by the agency.

(f) Upon application to the Department, the Department may issue a temporary permit to an applicant for a 6-month period to allow the holder of such permit reasonable time to become eligible for a license under this Act.

(g) (1) The Department may conduct site visits to an agency licensed under this Act, or to any program or placement certified by the agency, and inspect the records or premises, or both, of such agency, program or placement as it deems appropriate, for the purpose of determining compliance with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations.

(2) If the Department determines that an agency licensed under this Act is not in compliance with this Act or the rules and regulations promulgated under this Act, the Department shall serve a notice of violation upon the licensee. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, the statutory provision or rule alleged to have been violated, and that the licensee submit a plan of correction to the Department if required. The notice shall also inform the licensee of any other action which the Department might take pursuant to this Act and of the right to a hearing.

(h) Upon the expiration of any license issued under this Act, a license renewal application shall be required of and a license renewal fee in an amount established by the Department shall be charged to a community mental health or developmental services agency, provided that such fee shall not be more than \$200.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-140. The Child Care Act of 1969 is amended by changing Section 2.06 as follows:

(225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

Sec. 2.06. "Child care institution" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

(a) Any State-operated institution for child care established by legislative action;

(b) Any juvenile detention or shelter care home established and operated by any county or child protection district established under the "Child Protection Act";

(c) Any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act;

(d) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or taught in public elementary schools, high schools, or both elementary and high schools, and which operates on a regular academic school year basis; or

(e) Any facility licensed as a "group home" as defined in

this Act.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-145. The Health Care Worker Background Check Act is amended by changing Section 15 as follows:

(225 ILCS 46/15)

Sec. 15. Definitions. In this Act:

"Applicant" means an individual seeking employment with a health care employer who has received a bona fide conditional offer of employment.

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

"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs, including home services as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act. The entity responsible for inspecting and licensing, certifying, or registering the health care employer may, by administrative rule, prescribe guidelines for interpreting this definition with regard to the health care employers that it licenses.

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

"Employee" means any individual hired, employed, or retained to which this Act applies.

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

"Health care employer" means:

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

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

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

(iii) a long-term care facility;

(iv) a home health agency, home services agency, or home nursing agency as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act;

(v) a hospice care program or volunteer hospice program, as defined in the Hospice Program Licensing Act;

(vi) a hospital, as defined in the Hospital Licensing Act;

(vii) (blank);

(viii) a nurse agency, as defined in the Nurse Agency Licensing Act;

(ix) a respite care provider, as defined in the Respite Program Act;

(ix-a) an establishment licensed under the Assisted Living and Shared Housing Act;

(x) a supportive living program, as defined in the Illinois Public Aid Code;

(xi) early childhood intervention programs as described in 59 Ill. Adm. Code 121;

(xii) the University of Illinois Hospital, Chicago;

(xiii) programs funded by the Department on Aging through the Community Care Program;

(xiv) programs certified to participate in the Supportive Living Program authorized pursuant to Section 5-5.01a of the Illinois Public Aid Code;

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

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

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

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

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

"Initiate" means obtaining from a student, applicant, or employee his or her social security number, demographics, a disclosure statement, and an authorization for the Department of Public Health or its designee to request a fingerprint-based criminal history records check; transmitting this information electronically to the Department of Public Health; conducting Internet searches on certain web sites, including without limitation the Illinois Sex Offender Registry, the Department of Corrections' Sex Offender Search Engine, the Department of Corrections' Inmate Search Engine, the Department of Corrections Wanted Fugitives Search Engine, the National Sex Offender Public Registry, and the website of the Health and Human Services Office of Inspector General to determine if the applicant has been adjudicated a sex offender, has been a prison inmate, or has committed Medicare or Medicaid fraud, or conducting similar searches as defined by rule; and having the student, applicant, or employee's fingerprints collected and transmitted electronically to the Department of State Police.

"Livescan vendor" means an entity whose equipment has been certified by the Department of State Police to collect an individual's demographics and inkless fingerprints and, in a manner prescribed by the Department of State Police and the

Department of Public Health, electronically transmit the fingerprints and required data to the Department of State Police and a daily file of required data to the Department of Public Health. The Department of Public Health shall negotiate a contract with one or more vendors that effectively demonstrate that the vendor has 2 or more years of experience transmitting fingerprints electronically to the Department of State Police and that the vendor can successfully transmit the required data in a manner prescribed by the Department of Public Health. Vendor authorization may be further defined by administrative rule.

"Long-term care facility" means a facility licensed by the State or certified under federal law as a long-term care facility, including without limitation facilities licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, a supportive living facility, an assisted living establishment, or a shared housing establishment or registered as a board and care home.

(Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

Section 90-150. The Nursing Home Administrators Licensing and Disciplinary Act is amended by changing Sections 4 and 17 as follows:

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

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

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

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

(2) "Department" means the Department of Financial and Professional Regulation.

(3) "Secretary" means the Secretary of Financial and Professional Regulation.

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

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

(6) "Nursing home" or "facility" means any entity that is required to be licensed by the Department of Public Health under the Nursing Home Care Act, as amended, other than a sheltered care home as defined thereunder, and includes private homes, institutions, buildings, residences, or other places, whether operated for profit or

not, irrespective of the names attributed to them, county homes for the infirm and chronically ill operated pursuant to the County Nursing Home Act, as amended, and any similar institutions operated by a political subdivision of the State of Illinois that provide, though their ownership or management, maintenance, personal care, and nursing for 3 or more persons, not related to the owner by blood or marriage, or any similar facilities in which maintenance is provided to 3 or more persons who by reason of illness of physical infirmity require personal care and nursing. The term also means any facility licensed under the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act.

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

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

(9) "Nursing" means professional nursing or practical nursing, as those terms are defined in the Nurse Practice Act, for sick or infirm persons who are under the care and

supervision of licensed physicians or dentists.

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

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

(12) "Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

(Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

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

(Text of Section before amendment by P.A. 96-1551)

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

Sec. 17. Grounds for disciplinary action.

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

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

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

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

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

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

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive,

defraud or harm the public.

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

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

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

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

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

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

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

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

(15) (Blank).

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

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

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

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

(20) Failure to report to the Department the surrender of a license or authorization to practice as a nursing home

administrator in another state or jurisdiction for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

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

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

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

The Department, upon the recommendation of the Board, may adopt rules which set forth standards to be used in determining

what constitutes:

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

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

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

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

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

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Department or Board. The Department or Board may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The

individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board shall require such individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act or continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary immediately suspends a license under

this Section, a hearing upon such person's license must be convened by the Board within 30 days after such suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject administrator's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

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

(c) Members of the Board, and persons retained under contract to assist and advise in an investigation, shall be indemnified by the State for any actions occurring within the scope of services on or for the Board, done in good faith and not wilful and wanton in nature. The Attorney General shall

defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

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

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

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

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the

patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice.

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

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

(Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

(Text of Section after amendment by P.A. 96-1551)

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

Sec. 17. Grounds for disciplinary action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) (Blank).

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

(17) Conviction of a violation of Section 12-19 or subsection (a) of Section 12-4.4a of the Criminal Code of 1961 for the abuse and criminal neglect of a long term care

facility resident.

(18) Violation of the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act or of any rule issued under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act. A final adjudication of a Type "AA" violation of the Nursing Home Care Act made by the Illinois Department of Public Health, as identified by rule, relating to the hiring, training, planning, organizing, directing, or supervising the operation of a nursing home and a licensee's failure to comply with this Act or the rules adopted under this Act, shall create a rebuttable presumption of a violation of this subsection.

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

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

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

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

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Department order based upon a finding by the Board that they have been determined to be recovered from mental illness by the court and upon the Board's recommendation that they be permitted to resume their practice.

The Department, upon the recommendation of the Board, may adopt rules which set forth standards to be used in determining what constitutes:

(i) when a person will be deemed sufficiently rehabilitated to warrant the public trust;

(ii) dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(iii) immoral conduct in the commission of any act related to the licensee's practice; and

(iv) professional incompetence in the practice of nursing home administration.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Department or Board. The Department or Board may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit

to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board shall require such individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act or continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Board within 30 days after such suspension and completed without appreciable delay. The Department and Board

shall have the authority to review the subject administrator's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(b) Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Department, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Department, or by serving as a member of the Board, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(c) Members of the Board, and persons retained under contract to assist and advise in an investigation, shall be indemnified by the State for any actions occurring within the scope of services on or for the Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were

wilful and wanton.

Should the Attorney General decline representation, a person entitled to indemnification under this Section shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

A person entitled to indemnification under this Section must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent a person entitled to indemnification under this Section.

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the

Board to the Secretary that the licensee be allowed to resume his or her practice.

(e) The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(f) The Department of Public Health shall transmit to the Department a list of those facilities which receive an "A" violation as defined in Section 1-129 of the Nursing Home Care Act.

(Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10; 96-1551, eff. 7-1-11.)

Section 90-155. The Pharmacy Practice Act is amended by changing Section 3 as follows:

(225 ILCS 85/3)

(Section scheduled to be repealed on January 1, 2018)

Sec. 3. Definitions. For the purpose of this Act, except where otherwise limited therein:

(a) "Pharmacy" or "drugstore" means and includes every store, shop, pharmacy department, or other place where pharmacist care is provided by a pharmacist (1) where drugs,

medicines, or poisons are dispensed, sold or offered for sale at retail, or displayed for sale at retail; or (2) where prescriptions of physicians, dentists, advanced practice nurses, physician assistants, veterinarians, podiatrists, or optometrists, within the limits of their licenses, are compounded, filled, or dispensed; or (3) which has upon it or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "Pharmacist", "Druggist", "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore", "Medicine Store", "Prescriptions", "Drugs", "Dispensary", "Medicines", or any word or words of similar or like import, either in the English language or any other language; or (4) where the characteristic prescription sign (Rx) or similar design is exhibited; or (5) any store, or shop, or other place with respect to which any of the above words, objects, signs or designs are used in any advertisement.

(b) "Drugs" means and includes (1) articles recognized in the official United States Pharmacopoeia/National Formulary (USP/NF), or any supplement thereto and being intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (2) all other articles intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved

by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (3) articles (other than food) having for their main use and intended to affect the structure or any function of the body of man or other animals; and (4) articles having for their main use and intended for use as a component or any articles specified in clause (1), (2) or (3); but does not include devices or their components, parts or accessories.

(c) "Medicines" means and includes all drugs intended for human or veterinary use approved by the United States Food and Drug Administration.

(d) "Practice of pharmacy" means (1) the interpretation and the provision of assistance in the monitoring, evaluation, and implementation of prescription drug orders; (2) the dispensing of prescription drug orders; (3) participation in drug and device selection; (4) drug administration limited to the administration of oral, topical, injectable, and inhalation as follows: in the context of patient education on the proper use or delivery of medications; vaccination of patients 14 years of age and older pursuant to a valid prescription or standing order, by a physician licensed to practice medicine in all its branches, upon completion of appropriate training, including how to address contraindications and adverse reactions set forth by rule, with notification to the patient's physician and appropriate record retention, or pursuant to hospital pharmacy and therapeutics committee policies and procedures; (5) drug

regimen review; (6) drug or drug-related research; (7) the provision of patient counseling; (8) the practice of telepharmacy; (9) the provision of those acts or services necessary to provide pharmacist care; (10) medication therapy management; and (11) the responsibility for compounding and labeling of drugs and devices (except labeling by a manufacturer, repackager, or distributor of non-prescription drugs and commercially packaged legend drugs and devices), proper and safe storage of drugs and devices, and maintenance of required records. A pharmacist who performs any of the acts defined as the practice of pharmacy in this State must be actively licensed as a pharmacist under this Act.

(e) "Prescription" means and includes any written, oral, facsimile, or electronically transmitted order for drugs or medical devices, issued by a physician licensed to practice medicine in all its branches, dentist, veterinarian, or podiatrist, or optometrist, within the limits of their licenses, by a physician assistant in accordance with subsection (f) of Section 4, or by an advanced practice nurse in accordance with subsection (g) of Section 4, containing the following: (1) name of the patient; (2) date when prescription was issued; (3) name and strength of drug or description of the medical device prescribed; and (4) quantity; (5) directions for use; (6) prescriber's name, address, and signature; and (7) DEA number where required, for controlled substances. The prescription may, but is not required to, list the illness,

disease, or condition for which the drug or device is being prescribed. DEA numbers shall not be required on inpatient drug orders.

(f) "Person" means and includes a natural person, copartnership, association, corporation, government entity, or any other legal entity.

(g) "Department" means the Department of Financial and Professional Regulation.

(h) "Board of Pharmacy" or "Board" means the State Board of Pharmacy of the Department of Financial and Professional Regulation.

(i) "Secretary" means the Secretary of Financial and Professional Regulation.

(j) "Drug product selection" means the interchange for a prescribed pharmaceutical product in accordance with Section 25 of this Act and Section 3.14 of the Illinois Food, Drug and Cosmetic Act.

(k) "Inpatient drug order" means an order issued by an authorized prescriber for a resident or patient of a facility licensed under the Nursing Home Care Act, the MR/DD Community Care Act, the Specialized Mental Health Rehabilitation Act, or the Hospital Licensing Act, or "An Act in relation to the founding and operation of the University of Illinois Hospital and the conduct of University of Illinois health care programs", approved July 3, 1931, as amended, or a facility which is operated by the Department of Human Services (as

successor to the Department of Mental Health and Developmental Disabilities) or the Department of Corrections.

(k-5) "Pharmacist" means an individual health care professional and provider currently licensed by this State to engage in the practice of pharmacy.

(l) "Pharmacist in charge" means the licensed pharmacist whose name appears on a pharmacy license and who is responsible for all aspects of the operation related to the practice of pharmacy.

(m) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to or use by a patient in accordance with applicable State and federal laws and regulations. "Dispense" or "dispensing" does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier. "Dispense" or "dispensing" also does not mean the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

(n) "Nonresident pharmacy" means a pharmacy that is located in a state, commonwealth, or territory of the United States, other than Illinois, that delivers, dispenses, or distributes,

through the United States Postal Service, commercially acceptable parcel delivery service, or other common carrier, to Illinois residents, any substance which requires a prescription.

(o) "Compounding" means the preparation and mixing of components, excluding flavorings, (1) as the result of a prescriber's prescription drug order or initiative based on the prescriber-patient-pharmacist relationship in the course of professional practice or (2) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. "Compounding" includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed dispensing patterns. Commercially available products may be compounded for dispensing to individual patients only if all of the following conditions are met: (i) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet the patient's needs and (ii) the prescribing practitioner has requested that the drug be compounded.

(p) (Blank).

(q) (Blank).

(r) "Patient counseling" means the communication between a pharmacist or a student pharmacist under the supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of

optimizing proper use of prescription medications or devices. "Patient counseling" may include without limitation (1) obtaining a medication history; (2) acquiring a patient's allergies and health conditions; (3) facilitation of the patient's understanding of the intended use of the medication; (4) proper directions for use; (5) significant potential adverse events; (6) potential food-drug interactions; and (7) the need to be compliant with the medication therapy. A pharmacy technician may only participate in the following aspects of patient counseling under the supervision of a pharmacist: (1) obtaining medication history; (2) providing the offer for counseling by a pharmacist or student pharmacist; and (3) acquiring a patient's allergies and health conditions.

(s) "Patient profiles" or "patient drug therapy record" means the obtaining, recording, and maintenance of patient prescription information, including prescriptions for controlled substances, and personal information.

(t) (Blank).

(u) "Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, required under federal law to bear the label "Caution: Federal law requires dispensing by or on the order of a physician". A seller of goods and services who, only for the purpose of retail sales, compounds, sells, rents, or leases medical devices shall not, by reasons thereof, be required to

be a licensed pharmacy.

(v) "Unique identifier" means an electronic signature, handwritten signature or initials, thumb print, or other acceptable biometric or electronic identification process as approved by the Department.

(w) "Current usual and customary retail price" means the price that a pharmacy charges to a non-third-party payor.

(x) "Automated pharmacy system" means a mechanical system located within the confines of the pharmacy or remote location that performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medication, and which collects, controls, and maintains all transaction information.

(y) "Drug regimen review" means and includes the evaluation of prescription drug orders and patient records for (1) known allergies; (2) drug or potential therapy contraindications; (3) reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications; (4) reasonable directions for use; (5) potential or actual adverse drug reactions; (6) drug-drug interactions; (7) drug-food interactions; (8) drug-disease contraindications; (9) therapeutic duplication; (10) patient laboratory values when authorized and available; (11) proper utilization (including over or under utilization) and optimum therapeutic outcomes; and (12) abuse and misuse.

(z) "Electronic transmission prescription" means any

prescription order for which a facsimile or electronic image of the order is electronically transmitted from a licensed prescriber to a pharmacy. "Electronic transmission prescription" includes both data and image prescriptions.

(aa) "Medication therapy management services" means a distinct service or group of services offered by licensed pharmacists, physicians licensed to practice medicine in all its branches, advanced practice nurses authorized in a written agreement with a physician licensed to practice medicine in all its branches, or physician assistants authorized in guidelines by a supervising physician that optimize therapeutic outcomes for individual patients through improved medication use. In a retail or other non-hospital pharmacy, medication therapy management services shall consist of the evaluation of prescription drug orders and patient medication records to resolve conflicts with the following:

- (1) known allergies;
- (2) drug or potential therapy contraindications;
- (3) reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications;
- (4) reasonable directions for use;
- (5) potential or actual adverse drug reactions;
- (6) drug-drug interactions;
- (7) drug-food interactions;
- (8) drug-disease contraindications;

- (9) identification of therapeutic duplication;
- (10) patient laboratory values when authorized and available;
- (11) proper utilization (including over or under utilization) and optimum therapeutic outcomes; and
- (12) drug abuse and misuse.

"Medication therapy management services" includes the following:

- (1) documenting the services delivered and communicating the information provided to patients' prescribers within an appropriate time frame, not to exceed 48 hours;
- (2) providing patient counseling designed to enhance a patient's understanding and the appropriate use of his or her medications; and
- (3) providing information, support services, and resources designed to enhance a patient's adherence with his or her prescribed therapeutic regimens.

"Medication therapy management services" may also include patient care functions authorized by a physician licensed to practice medicine in all its branches for his or her identified patient or groups of patients under specified conditions or limitations in a standing order from the physician.

"Medication therapy management services" in a licensed hospital may also include the following:

- (1) reviewing assessments of the patient's health

status; and

(2) following protocols of a hospital pharmacy and therapeutics committee with respect to the fulfillment of medication orders.

(bb) "Pharmacist care" means the provision by a pharmacist of medication therapy management services, with or without the dispensing of drugs or devices, intended to achieve outcomes that improve patient health, quality of life, and comfort and enhance patient safety.

(cc) "Protected health information" means individually identifiable health information that, except as otherwise provided, is:

(1) transmitted by electronic media;

(2) maintained in any medium set forth in the definition of "electronic media" in the federal Health Insurance Portability and Accountability Act; or

(3) transmitted or maintained in any other form or medium.

"Protected health information" does not include individually identifiable health information found in:

(1) education records covered by the federal Family Educational Right and Privacy Act; or

(2) employment records held by a licensee in its role as an employer.

(dd) "Standing order" means a specific order for a patient or group of patients issued by a physician licensed to practice

medicine in all its branches in Illinois.

(ee) "Address of record" means the address recorded by the Department in the applicant's or licensee's application file or license file, as maintained by the Department's licensure maintenance unit.

(ff) "Home pharmacy" means the location of a pharmacy's primary operations.

(Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10; 96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff. 7-28-10.)

Section 90-160. The Nurse Agency Licensing Act is amended by changing Section 3 as follows:

(225 ILCS 510/3) (from Ch. 111, par. 953)

Sec. 3. Definitions. As used in this Act:

(a) "Certified nurse aide" means an individual certified as defined in Section 3-206 of the Nursing Home Care Act, Section 3-206 of the Specialized Mental Health Rehabilitation Act, or Section 3-206 of the MR/DD Community Care Act, as now or hereafter amended.

(b) "Department" means the Department of Labor.

(c) "Director" means the Director of Labor.

(d) "Health care facility" is defined as in Section 3 of the Illinois Health Facilities Planning Act, as now or hereafter amended.

(e) "Licensee" means any nursing agency which is properly licensed under this Act.

(f) "Nurse" means a registered nurse or a licensed practical nurse as defined in the Nurse Practice Act.

(g) "Nurse agency" means any individual, firm, corporation, partnership or other legal entity that employs, assigns or refers nurses or certified nurse aides to a health care facility for a fee. The term "nurse agency" includes nurses registries. The term "nurse agency" does not include services provided by home health agencies licensed and operated under the Home Health, Home Services, and Home Nursing Agency Licensing Act or a licensed or certified individual who provides his or her own services as a regular employee of a health care facility, nor does it apply to a health care facility's organizing nonsalaried employees to provide services only in that facility.

(Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

Section 90-165. The Illinois Public Aid Code is amended by changing Sections 5-5.4, 5-5.7, 5-6, 5-5.12, 5B-1, 5E-5, and 8A-11 as follows:

(305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

Sec. 5-5.4. Standards of Payment - Department of Healthcare and Family Services. The Department of Healthcare and Family Services shall develop standards of payment of nursing facility

and ICF/DD services in facilities providing such services under this Article which:

(1) Provide for the determination of a facility's payment for nursing facility or ICF/DD services on a prospective basis. The amount of the payment rate for all nursing facilities certified by the Department of Public Health under the MR/DD Community Care Act or the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities, Long Term Care for Under Age 22 facilities, Skilled Nursing facilities, or Intermediate Care facilities under the medical assistance program shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. No rate increase and no update for inflation shall be provided on or after July 1, 1994 and before July 1, 2012, unless specifically provided for in this Section. The changes made by Public Act 93-841 extending the duration of the prohibition against a rate increase or update for inflation are effective retroactive to July 1, 2004.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under

Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1998 shall include an increase of 3% plus \$1.10 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on January 1, 2006 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on January 1, 2009 shall include an increase sufficient to provide a \$0.50 per hour wage increase for non-executive staff.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus \$3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an

increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by \$4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, a new payment methodology must be implemented for the nursing component of the rate effective July 1, 2003. The Department of Public Aid (now Healthcare and Family Services) shall develop the new payment methodology using the Minimum Data Set (MDS) as the instrument to collect information concerning nursing home resident condition necessary to compute the rate. The Department shall develop the new payment methodology to meet the unique needs of Illinois nursing home residents while remaining subject to the appropriations provided by the General Assembly. A transition period from the payment methodology in effect on June 30, 2003

to the payment methodology in effect on July 1, 2003 shall be provided for a period not exceeding 3 years and 184 days after implementation of the new payment methodology as follows:

(A) For a facility that would receive a lower nursing component rate per patient day under the new system than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be held at the level in effect on the date immediately preceding the date that the Department implements the new payment methodology until a higher nursing component rate of reimbursement is achieved by that facility.

(B) For a facility that would receive a higher nursing component rate per patient day under the payment methodology in effect on July 1, 2003 than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be adjusted.

(C) Notwithstanding paragraphs (A) and (B), the nursing component rate per patient day for the facility shall be adjusted subject to appropriations provided by the General Assembly.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the

Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, except facilities participating in the Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code, the numerator of the ratio used by the Department of Healthcare and Family Services to compute the rate payable under this Section using the Minimum Data Set (MDS) methodology shall incorporate the following annual amounts as the additional funds appropriated to the Department specifically to pay for rates based on the MDS nursing component methodology in excess of the funding in effect on December 31, 2006:

(i) For rates taking effect January 1, 2007, \$60,000,000.

(ii) For rates taking effect January 1, 2008, \$110,000,000.

(iii) For rates taking effect January 1, 2009, \$194,000,000.

(iv) For rates taking effect April 1, 2011, or the first day of the month that begins at least 45 days after

the effective date of this amendatory Act of the 96th General Assembly, \$416,500,000 or an amount as may be necessary to complete the transition to the MDS methodology for the nursing component of the rate.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department. This increase terminates on July 1, 2002; beginning July 1, 2002 these rates are reduced to the level of the rates in effect on March 31, 2002, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001 shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000, updated for inflation to January 1, 2001. For

rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2002, which shall be 5.9% less than the rates in effect on June 30, 2002.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, if the payment methodologies required under Section 5A-12 and the waiver granted under 42 CFR 433.68 are approved by the United States Centers for Medicare and Medicaid Services, the rates taking effect on July 1, 2004 shall be 3.0% greater than the rates in effect on June 30, 2004. These rates shall take effect only upon approval and implementation of the payment methodologies required under Section 5A-12.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on January 1, 2005 shall be 3% more than the rates in effect on

December 31, 2004.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective January 1, 2009, the per diem support component of the rates effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures, and inflators.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as intermediate care facilities that are federally defined as Institutions for Mental Disease, or facilities licensed by the Department of Public Health under the Specialized Mental Health Rehabilitation Facilities Act, a socio-development component rate equal to 6.6% of the facility's nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. The socio-development component of the rate shall be increased by a factor of 2.53 on the first day of the month that begins at least 45 days after January 11, 2008 (the effective date of Public Act 95-707). As of August 1, 2008, the socio-development component rate shall be equal to 6.6% of the facility's nursing

component rate as of January 1, 2006, multiplied by a factor of 3.53. For services provided on or after April 1, 2011, or the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 96th General Assembly, whichever is later, the Illinois Department may by rule adjust these socio-development component rates, and may use different adjustment methodologies for those facilities participating, and those not participating, in the Illinois Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code, but in no case may such rates be diminished below those in effect on August 1, 2008.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or as long-term care facilities for residents under 22 years of age, the rates taking effect on July 1, 2003 shall include a statewide increase of 4%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 95th General Assembly shall include a statewide increase of 2.5%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective January 1, 2005, facility rates shall be increased by the difference between (i) a facility's per diem property, liability, and malpractice insurance costs as reported in the cost report filed with the Department of Public Aid and used to establish rates effective July 1, 2001 and (ii) those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations, except for adjustments required under normal auditing procedures.

Rates established effective each July 1 shall govern payment for services rendered throughout that fiscal year, except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 1, 1997. Such rates will be based upon the rates calculated for the year beginning July 1, 1990, and for subsequent years thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point in time during the previous calendar year, updated to the midpoint of the rate year. The cost report shall be on file with the Department no later than April 1 of the current rate year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report filed by each skilled care facility and intermediate care facility,

updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 1, 1985, fixed time shall not be computed at less than zero. The Department shall not make any alterations of regulations which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in the rate effective on July 1, 1984.

(2) Shall take into account the actual costs incurred by facilities in providing services for recipients of skilled nursing and intermediate care services under the medical assistance program.

(3) Shall take into account the medical and psycho-social characteristics and needs of the patients.

(4) Shall take into account the actual costs incurred by facilities in meeting licensing and certification standards imposed and prescribed by the State of Illinois, any of its political subdivisions or municipalities and by the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

The Department of Healthcare and Family Services shall develop precise standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for the provision of rehabilitative services which is authorized by federal regulations, including reimbursement for services provided by qualified therapists or qualified assistants, and which is in accordance with accepted

professional practices. Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision.

The Department shall develop enhanced payments to offset the additional costs incurred by a facility serving exceptional need residents and shall allocate at least \$8,000,000 of the funds collected from the assessment established by Section 5B-2 of this Code for such payments. For the purpose of this Section, "exceptional needs" means, but need not be limited to, ventilator care, tracheotomy care, bariatric care, complex wound care, and traumatic brain injury care.

(5) Beginning July 1, 2012 the methodologies for reimbursement of nursing facility services as provided under this Section 5-5.4 shall no longer be applicable for bills payable for State fiscal years 2012 and thereafter.

(Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09; 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

Sec. 5-5.7. Cost Reports - Audits. The Department of Healthcare and Family Services shall work with the Department of Public Health to use cost report information currently being collected under provisions of the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, and the MR/DD

Community Care Act. The Department of Healthcare and Family Services may, in conjunction with the Department of Public Health, develop in accordance with generally accepted accounting principles a uniform chart of accounts which each facility providing services under the medical assistance program shall adopt, after a reasonable period.

Facilities ~~Nursing homes~~ licensed under the Nursing Home Care, the Specialized Mental Health Rehabilitation Act, Act or the MR/DD Community Care Act and providers of adult developmental training services certified by the Department of Human Services pursuant to Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act which provide services to clients eligible for medical assistance under this Article are responsible for submitting the required annual cost report to the Department of Healthcare and Family Services.

The Department of Healthcare and Family Services shall audit the financial and statistical records of each provider participating in the medical assistance program as a nursing facility, a specialized mental health rehabilitation facility, or an ICF/DD over a 3 year period, beginning with the close of the first cost reporting year. Following the end of this 3-year term, audits of the financial and statistical records will be performed each year in at least 20% of the facilities participating in the medical assistance program with at least 10% being selected on a random sample basis, and the remainder

selected on the basis of exceptional profiles. All audits shall be conducted in accordance with generally accepted auditing standards.

The Department of Healthcare and Family Services shall establish prospective payment rates for categories or ~~of~~ ~~service needed within the nursing facility or ICF/DD~~ levels of services within each licensure class, in order to more appropriately recognize the individual needs of patients in nursing facilities.

The Department of Healthcare and Family Services shall provide, during the process of establishing the payment rate for nursing facility, specialized mental health rehabilitation facility, or ICF/DD services, or when a substantial change in rates is proposed, an opportunity for public review and comment on the proposed rates prior to their becoming effective.

(Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

Sec. 5-5.12. Pharmacy payments.

(a) Every request submitted by a pharmacy for reimbursement under this Article for prescription drugs provided to a recipient of aid under this Article shall include the name of the prescriber or an acceptable identification number as established by the Department.

(b) Pharmacies providing prescription drugs under this

Article shall be reimbursed at a rate which shall include a professional dispensing fee as determined by the Illinois Department, plus the current acquisition cost of the prescription drug dispensed. The Illinois Department shall update its information on the acquisition costs of all prescription drugs no less frequently than every 30 days. However, the Illinois Department may set the rate of reimbursement for the acquisition cost, by rule, at a percentage of the current average wholesale acquisition cost.

(c) (Blank).

(d) The Department shall not impose requirements for prior approval based on a preferred drug list for anti-retroviral, anti-hemophilic factor concentrates, or any atypical antipsychotics, conventional antipsychotics, or anticonvulsants used for the treatment of serious mental illnesses until 30 days after it has conducted a study of the impact of such requirements on patient care and submitted a report to the Speaker of the House of Representatives and the President of the Senate. The Department shall review utilization of narcotic medications in the medical assistance program and impose utilization controls that protect against abuse.

(e) When making determinations as to which drugs shall be on a prior approval list, the Department shall include as part of the analysis for this determination, the degree to which a drug may affect individuals in different ways based on factors

including the gender of the person taking the medication.

(f) The Department shall cooperate with the Department of Public Health and the Department of Human Services Division of Mental Health in identifying psychotropic medications that, when given in a particular form, manner, duration, or frequency (including "as needed") in a dosage, or in conjunction with other psychotropic medications to a nursing home resident or to a resident of a facility licensed under the MR/DD Community Care Act, may constitute a chemical restraint or an "unnecessary drug" as defined by the Nursing Home Care Act or Titles XVIII and XIX of the Social Security Act and the implementing rules and regulations. The Department shall require prior approval for any such medication prescribed for a nursing home resident or to a resident of a facility licensed under the MR/DD Community Care Act, that appears to be a chemical restraint or an unnecessary drug. The Department shall consult with the Department of Human Services Division of Mental Health in developing a protocol and criteria for deciding whether to grant such prior approval.

(g) The Department may by rule provide for reimbursement of the dispensing of a 90-day supply of a generic, non-narcotic maintenance medication in circumstances where it is cost effective.

(Source: P.A. 96-1269, eff. 7-26-10; 96-1372, eff. 7-29-10; 96-1501, eff. 1-25-11.)

(305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

Sec. 5-6. Obligations incurred prior to death of a recipient. Obligations incurred but not paid for at the time of a recipient's death for services authorized under Section 5-5, including medical and other care in ~~group care~~ facilities as defined in the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, or in like facilities not required to be licensed under that Act, may be paid, subject to the rules and regulations of the Illinois Department, after the death of the recipient.

(Source: P.A. 96-339, eff. 7-1-10.)

(305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

Sec. 5B-1. Definitions. As used in this Article, unless the context requires otherwise:

"Fund" means the Long-Term Care Provider Fund.

"Long-term care facility" means (i) a nursing facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the MR/DD Community Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code, and (ii) a part of a hospital in which skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; except that the term "long-term care facility" does not include

a facility operated by a State agency, ~~a facility participating in the Illinois Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code,~~ or operated solely as an intermediate care facility for the mentally retarded within the meaning of Title XIX of the Social Security Act.

"Long-term care provider" means (i) a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long-term care facility or (ii) a hospital provider that provides skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act. For purposes of this paragraph, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital.

"Occupied bed days" shall be computed separately for each long-term care facility operated or maintained by a long-term care provider, and means the sum for all beds of the number of days during the month on which each bed was occupied by a resident, other than a resident for whom Medicare Part A is the primary payer.

(Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5E-5)

Sec. 5E-5. Definitions. As used in this Article, unless the context requires otherwise:

"Nursing home" means (i) a skilled nursing or intermediate long-term care facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the MR/DD Community Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code, and (ii) a part of a hospital in which skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; except that the term "nursing home" does not include a facility operated solely as an intermediate care facility for the mentally retarded within the meaning of Title XIX of the Social Security Act or a specialized mental health rehabilitation facility.

"Nursing home provider" means (i) a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long-term care facility which charges its residents, a third party payor, Medicaid, or Medicare for skilled nursing or intermediate long-term care services, or (ii) a hospital provider that provides skilled or intermediate long-term care services within the meaning of Title XVIII or

XIX of the Social Security Act. "Nursing home provider" does not include a person who operates or a provider who provides services within a specialized mental health rehabilitation facility. For purposes of this paragraph, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital.

"Licensed bed days" shall be computed separately for each nursing home operated or maintained by a nursing home provider and means, with respect to a nursing home provider, the sum for all nursing home beds of the number of days during a calendar quarter on which each bed is covered by a license issued to that provider under the Nursing Home Care Act or the Hospital Licensing Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

Sec. 8A-11. (a) No person shall:

(1) Knowingly charge a resident of a nursing home for any services provided pursuant to Article V of the Illinois Public Aid Code, money or other consideration at a rate in excess of the rates established for covered services by the

Illinois Department pursuant to Article V of The Illinois Public Aid Code; or

(2) Knowingly charge, solicit, accept or receive, in addition to any amount otherwise authorized or required to be paid pursuant to Article V of The Illinois Public Aid Code, any gift, money, donation or other consideration:

(i) As a precondition to admitting or expediting the admission of a recipient or applicant, pursuant to Article V of The Illinois Public Aid Code, to a long-term care facility as defined in Section 1-113 of the Nursing Home Care Act or a facility as defined in Section 1-113 of the MR/DD Community Care Act or Section 1-113 of the Specialized Mental Health Rehabilitation Act; and

(ii) As a requirement for the recipient's or applicant's continued stay in such facility when the cost of the services provided therein to the recipient is paid for, in whole or in part, pursuant to Article V of The Illinois Public Aid Code.

(b) Nothing herein shall prohibit a person from making a voluntary contribution, gift or donation to a long-term care facility.

(c) This paragraph shall not apply to agreements to provide continuing care or life care between a life care facility as defined by the Life Care Facilities Act, and a person financially eligible for benefits pursuant to Article V of The

Illinois Public Aid Code.

(d) Any person who violates this Section shall be guilty of a business offense and fined not less than \$5,000 nor more than \$25,000.

(e) "Person", as used in this Section, means an individual, corporation, partnership, or unincorporated association.

(f) The State's Attorney of the county in which the facility is located and the Attorney General shall be notified by the Illinois Department of any alleged violations of this Section known to the Department.

(g) The Illinois Department shall adopt rules and regulations to carry out the provisions of this Section.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-170. The Elder Abuse and Neglect Act is amended by changing Section 2 as follows:

(320 ILCS 20/2) (from Ch. 23, par. 6602)

Sec. 2. Definitions. As used in this Act, unless the context requires otherwise:

(a) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse, neglect, or self-neglect for the sole reason that he or she is being furnished with or

relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

(a-5) "Abuser" means a person who abuses, neglects, or financially exploits an eligible adult.

(a-7) "Caregiver" means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living.

(b) "Department" means the Department on Aging of the State of Illinois.

(c) "Director" means the Director of the Department.

(d) "Domestic living situation" means a residence where the eligible adult lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act;

(1.5) A facility licensed under the MR/DD Community Care Act;

(1.7) A facility licensed under the Specialized Mental

Health Rehabilitation Act;

(2) A "life care facility" as defined in the Life Care Facilities Act;

(3) A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

(4) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(5) A "community living facility" as defined in the Community Living Facilities Licensing Act;

(6) (Blank);

(7) A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

(8) An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act;
or

(9) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

(e) "Eligible adult" means a person 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by

another individual or who neglects himself or herself.

(f) "Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

(f-5) "Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

(1) a professional or professional's delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nurse Practice Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional

Counselor Licensing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

(2) an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

(3) an administrator, employee, or person providing services in or through an unlicensed community based facility;

(4) any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

(5) field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

(6) personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long Term Care Ombudsman;

(7) any employee of the State of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

(8) a person who performs the duties of a coroner or medical examiner; or

(9) a person who performs the duties of a paramedic or an emergency medical technician.

(g) "Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This subsection does not create any new affirmative duty to provide support to eligible adults. Nothing in this Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

(h) "Provider agency" means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on

Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated.

(i-5) "Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety.

(j) "Substantiated case" means a reported case of alleged or suspected abuse, neglect, financial exploitation, or self-neglect in which a provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred.

(Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10; 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 90-175. The Mental Health and Developmental Disabilities Code is amended by changing Section 2-107 as follows:

(405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

Sec. 2-107. Refusal of services; informing of risks.

(a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services.

(b) Psychotropic medication or electroconvulsive therapy may be administered under this Section for up to 24 hours only

if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record.

(c) Administration of medication or electroconvulsive therapy may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating that need are set forth in writing in the recipient's record.

(d) Neither psychotropic medication nor electroconvulsive therapy may be administered under this Section for a period in excess of 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition is filed under Section 2-107.1 and the treatment continues to be necessary under subsection (a) of this Section. Once the petition has been filed, treatment may continue in compliance with subsections (a), (b), and (c) of this Section until the final outcome of the hearing on the petition.

(e) The Department shall issue rules designed to insure that in State-operated mental health facilities psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. The facility director of each mental health facility not operated by the State shall issue rules designed to insure

that in that facility psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. Such rules shall be available for public inspection and copying during normal business hours.

(f) The provisions of this Section with respect to the emergency administration of psychotropic medication and electroconvulsive therapy do not apply to facilities licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act.

(g) Under no circumstances may long-acting psychotropic medications be administered under this Section.

(h) Whenever psychotropic medication or electroconvulsive therapy is refused pursuant to subsection (a) of this Section at least once that day, the physician shall determine and state in writing the reasons why the recipient did not meet the criteria for administration of medication or electroconvulsive therapy under subsection (a) and whether the recipient meets the standard for administration of psychotropic medication or electroconvulsive therapy under Section 2-107.1 of this Code. If the physician determines that the recipient meets the standard for administration of psychotropic medication or electroconvulsive therapy under Section 2-107.1, the facility director or his or her designee shall petition the court for

administration of psychotropic medication or electroconvulsive therapy pursuant to that Section unless the facility director or his or her designee states in writing in the recipient's record why the filing of such a petition is not warranted. This subsection (h) applies only to State-operated mental health facilities.

(i) The Department shall conduct annual trainings for all physicians and registered nurses working in State-operated mental health facilities on the appropriate use of emergency administration of psychotropic medication and electroconvulsive therapy, standards for their use, and the methods of authorization under this Section.

(Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

Section 90-180. The Protection and Advocacy for Mentally Ill Persons Act is amended by changing Section 3 as follows:

(405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

Sec. 3. Powers and Duties.

(A) In order to properly exercise its powers and duties, the agency shall have the authority to:

(1) Investigate incidents of abuse and neglect of mentally ill persons if the incidents are reported to the agency or if there is probable cause to believe that the incidents occurred. In case of conflict with provisions of the Abused and Neglected Child Reporting Act or the Nursing

Home Care Act, the provisions of those Acts shall apply.

(2) Pursue administrative, legal and other appropriate remedies to ensure the protection of the rights of mentally ill persons who are receiving care and treatment in this State.

(3) Pursue administrative, legal and other remedies on behalf of an individual who:

(a) was a mentally ill individual; and

(b) is a resident of this State, but only with respect to matters which occur within 90 days after the date of the discharge of such individual from a facility providing care and treatment.

(4) Establish a board which shall:

(a) advise the protection and advocacy system on policies and priorities to be carried out in protecting and advocating the rights of mentally ill individuals; and

(b) include attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness, a provider of mental health services, individuals who have received or are receiving mental health services and family members of such individuals. At least one-half the members of the board shall be individuals who have received or are receiving mental health services or who are family members of such individuals.

(5) On January 1, 1988, and on January 1 of each succeeding year, prepare and transmit to the Secretary of the United States Department of Health and Human Services and to the Illinois Secretary of Human Services a report describing the activities, accomplishments and expenditures of the protection and advocacy system during the most recently completed fiscal year.

(B) The agency shall have access to all mental health facilities as defined in Sections 1-107 and 1-114 of the Mental Health and Developmental Disabilities Code, all facilities as defined in Section 1-113 of the Nursing Home Care Act, all facilities as defined in Section 1-113 of the Specialized Mental Health Rehabilitation Act, all facilities as defined in Section 1-113 of the MR/DD Community Care Act, all facilities as defined in Section 2.06 of the Child Care Act of 1969, as now or hereafter amended, and all other facilities providing care or treatment to mentally ill persons. Such access shall be granted for the purposes of meeting with residents and staff, informing them of services available from the agency, distributing written information about the agency and the rights of persons who are mentally ill, conducting scheduled and unscheduled visits, and performing other activities designed to protect the rights of mentally ill persons.

(C) The agency shall have access to all records of mentally ill persons who are receiving care or treatment from a facility, subject to the limitations of this Act, the Mental

Health and Developmental Disabilities Confidentiality Act, the Nursing Home Care Act and the Child Care Act of 1969, as now or hereafter amended. If the mentally ill person has a legal guardian other than the State or a designee of the State, the facility director shall disclose the guardian's name, address and telephone number to the agency upon its request. In cases of conflict with provisions of the Abused and Neglected Child Reporting Act and the Nursing Home Care Act, the provisions of the Abused and Neglected Child Reporting Act and the Nursing Home Care Act shall apply. The agency shall also have access, for the purpose of inspection and copying, to the records of a mentally ill person (i) who by reason of his or her mental or physical condition is unable to authorize the agency to have such access; (ii) who does not have a legal guardian or for whom the State or a designee of the State is the legal guardian; and (iii) with respect to whom a complaint has been received by the agency or with respect to whom there is probable cause to believe that such person has been subjected to abuse or neglect.

The agency shall provide written notice to the mentally ill person and the State guardian of the nature of the complaint based upon which the agency has gained access to the records. No record or the contents of the record shall be redisclosed by the agency unless the person who is mentally ill and the State guardian are provided 7 days advance written notice, except in emergency situations, of the agency's intent to redisclose such

record. Within such 7-day period, the mentally ill person or the State guardian may seek an injunction prohibiting the agency's redisclosure of such record on the grounds that such redisclosure is contrary to the interests of the mentally ill person.

Upon request, the authorized agency shall be entitled to inspect and copy any clinical or trust fund records of mentally ill persons which may further the agency's investigation of alleged problems affecting numbers of mentally ill persons. When required by law, any personally identifiable information of mentally ill persons shall be removed from the records. However, the agency may not inspect or copy any records or other materials when the removal of personally identifiable information imposes an unreasonable burden on any facility as defined by the Mental Health and Developmental Disabilities Code, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the Child Care Act of 1969, or any other facility providing care or treatment to mentally ill persons.

(D) Prior to instituting any legal action in a federal or State court on behalf of a mentally ill individual, an eligible protection and advocacy system, or a State agency or nonprofit organization which entered into a contract with such an eligible system under Section 104(a) of the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, shall exhaust in a timely manner all administrative remedies where appropriate. If, in pursuing administrative remedies, the

system, State agency or organization determines that any matter with respect to such individual will not be resolved within a reasonable time, the system, State agency or organization may pursue alternative remedies, including the initiation of appropriate legal action.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-285. The Developmental Disability and Mental Disability Services Act is amended by changing Sections 2-3 and 5-1 as follows:

(405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

Sec. 2-3. As used in this Article, unless the context requires otherwise:

(a) "Agency" means an agency or entity licensed by the Department pursuant to this Article or pursuant to the Community Residential Alternatives Licensing Act.

(b) "Department" means the Department of Human Services, as successor to the Department of Mental Health and Developmental Disabilities.

(c) "Home-based services" means services provided to a mentally disabled adult who lives in his or her own home. These services include but are not limited to:

- (1) home health services;
- (2) case management;
- (3) crisis management;

- (4) training and assistance in self-care;
- (5) personal care services;
- (6) habilitation and rehabilitation services;
- (7) employment-related services;
- (8) respite care; and
- (9) other skill training that enables a person to become self-supporting.

(d) "Legal guardian" means a person appointed by a court of competent jurisdiction to exercise certain powers on behalf of a mentally disabled adult.

(e) "Mentally disabled adult" means a person over the age of 18 years who lives in his or her own home; who needs home-based services, but does not require 24-hour-a-day supervision; and who has one of the following conditions: severe autism, severe mental illness, severe or profound mental retardation, or severe and multiple impairments.

(f) In one's "own home" means that a mentally disabled adult lives alone; or that a mentally disabled adult is in full-time residence with his or her parents, legal guardian, or other relatives; or that a mentally disabled adult is in full-time residence in a setting not subject to licensure under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, the MR/DD Community Care Act, or the Child Care Act of 1969, as now or hereafter amended, with 3 or fewer other adults unrelated to the mentally disabled adult who do not provide home-based services to the mentally disabled adult.

(g) "Parent" means the biological or adoptive parent of a mentally disabled adult, or a person licensed as a foster parent under the laws of this State who acts as a mentally disabled adult's foster parent.

(h) "Relative" means any of the following relationships by blood, marriage or adoption: parent, son, daughter, brother, sister, grandparent, uncle, aunt, nephew, niece, great grandparent, great uncle, great aunt, stepbrother, stepsister, stepson, stepdaughter, stepparent or first cousin.

(i) "Severe autism" means a lifelong developmental disability which is typically manifested before 30 months of age and is characterized by severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; and repertoire of activities and interests. A person shall be determined severely autistic, for purposes of this Article, if both of the following are present:

(1) Diagnosis consistent with the criteria for autistic disorder in the current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(2) Severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; repertoire of activities and interests. A determination of severe autism shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist. A determination of severe autism shall not be

based solely on behaviors relating to environmental, cultural or economic differences.

(j) "Severe mental illness" means the manifestation of all of the following characteristics:

(1) A primary diagnosis of one of the major mental disorders in the current edition of the Diagnostic and Statistical Manual of Mental Disorders listed below:

- (A) Schizophrenia disorder.
- (B) Delusional disorder.
- (C) Schizo-affective disorder.
- (D) Bipolar affective disorder.
- (E) Atypical psychosis.
- (F) Major depression, recurrent.

(2) The individual's mental illness must substantially impair his or her functioning in at least 2 of the following areas:

- (A) Self-maintenance.
- (B) Social functioning.
- (C) Activities of community living.
- (D) Work skills.

(3) Disability must be present or expected to be present for at least one year.

A determination of severe mental illness shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist, and shall not be based solely on behaviors relating to environmental,

cultural or economic differences.

(k) "Severe or profound mental retardation" means a manifestation of all of the following characteristics:

(1) A diagnosis which meets Classification in Mental Retardation or criteria in the current edition of the Diagnostic and Statistical Manual of Mental Disorders for severe or profound mental retardation (an IQ of 40 or below). This must be measured by a standardized instrument for general intellectual functioning.

(2) A severe or profound level of disturbed adaptive behavior. This must be measured by a standardized adaptive behavior scale or informal appraisal by the professional in keeping with illustrations in Classification in Mental Retardation, 1983.

(3) Disability diagnosed before age of 18.

A determination of severe or profound mental retardation shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or certified school psychologist or a psychiatrist, and shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(l) "Severe and multiple impairments" means the manifestation of all of the following characteristics:

(1) The evaluation determines the presence of a developmental disability which is expected to continue indefinitely, constitutes a substantial handicap and is

attributable to any of the following:

(A) Mental retardation, which is defined as general intellectual functioning that is 2 or more standard deviations below the mean concurrent with impairment of adaptive behavior which is 2 or more standard deviations below the mean. Assessment of the individual's intellectual functioning must be measured by a standardized instrument for general intellectual functioning.

(B) Cerebral palsy.

(C) Epilepsy.

(D) Autism.

(E) Any other condition which results in impairment similar to that caused by mental retardation and which requires services similar to those required by mentally retarded persons.

(2) The evaluation determines multiple handicaps in physical, sensory, behavioral or cognitive functioning which constitute a severe or profound impairment attributable to one or more of the following:

(A) Physical functioning, which severely impairs the individual's motor performance that may be due to:

(i) Neurological, psychological or physical involvement resulting in a variety of disabling conditions such as hemiplegia, quadriplegia or ataxia,

(ii) Severe organ systems involvement such as congenital heart defect,

(iii) Physical abnormalities resulting in the individual being non-mobile and non-ambulatory or confined to bed and receiving assistance in transferring, or

(iv) The need for regular medical or nursing supervision such as gastrostomy care and feeding.

Assessment of physical functioning must be based on clinical medical assessment by a physician licensed to practice medicine in all its branches, using the appropriate instruments, techniques and standards of measurement required by the professional.

(B) Sensory, which involves severe restriction due to hearing or visual impairment limiting the individual's movement and creating dependence in completing most daily activities. Hearing impairment is defined as a loss of 70 decibels aided or speech discrimination of less than 50% aided. Visual impairment is defined as 20/200 corrected in the better eye or a visual field of 20 degrees or less. Sensory functioning must be based on clinical medical assessment by a physician licensed to practice medicine in all its branches using the appropriate instruments, techniques and standards of measurement required by the professional.

(C) Behavioral, which involves behavior that is maladaptive and presents a danger to self or others, is destructive to property by deliberately breaking, destroying or defacing objects, is disruptive by fighting, or has other socially offensive behaviors in sufficient frequency or severity to seriously limit social integration. Assessment of behavioral functioning may be measured by a standardized scale or informal appraisal by a clinical psychologist or psychiatrist.

(D) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(3) The evaluation determines that development is substantially less than expected for the age in cognitive, affective or psychomotor behavior as follows:

(A) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(B) Affective behavior, which involves over and under responding to stimuli in the environment and may be observed in mood, attention to awareness, or in behaviors such as euphoria, anger or sadness that seriously limit integration into society. Affective

behavior must be based on clinical assessment using the appropriate instruments, techniques and standards of measurement required by the professional.

(C) Psychomotor, which includes a severe developmental delay in fine or gross motor skills so that development in self-care, social interaction, communication or physical activity will be greatly delayed or restricted.

(4) A determination that the disability originated before the age of 18 years.

A determination of severe and multiple impairments shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist.

If the examiner is a licensed clinical psychologist, ancillary evaluation of physical impairment, cerebral palsy or epilepsy must be made by a physician licensed to practice medicine in all its branches.

Regardless of the discipline of the examiner, ancillary evaluation of visual impairment must be made by an ophthalmologist or a licensed optometrist.

Regardless of the discipline of the examiner, ancillary evaluation of hearing impairment must be made by an otolaryngologist or an audiologist with a certificate of clinical competency.

The only exception to the above is in the case of a person

with cerebral palsy or epilepsy who, according to the eligibility criteria listed below, has multiple impairments which are only physical and sensory. In such a case, a physician licensed to practice medicine in all its branches may serve as the examiner.

(m) "Twenty-four-hour-a-day supervision" means 24-hour-a-day care by a trained mental health or developmental disability professional on an ongoing basis.

(Source: P.A. 96-339, eff. 7-1-10.)

(405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

Sec. 5-1. As the mental health and developmental disabilities or mental retardation authority for the State of Illinois, the Department of Human Services shall have the authority to license, certify and prescribe standards governing the programs and services provided under this Act, as well as all other agencies or programs which provide home-based or community-based services to the mentally disabled, except those services, programs or agencies established under or otherwise subject to the Child Care Act of 1969, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act, as now or hereafter amended, and this Act shall not be construed to limit the application of those Acts.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-190. The Facilities Requiring Smoke Detectors

Act is amended by changing Section 1 as follows:

(425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

Sec. 1. For purposes of this Act, unless the context requires otherwise:

(a) "Facility" means:

(1) Any long-term care facility as defined in Section 1-113 of the Nursing Home Care Act or any facility as defined in Section 1-113 of the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act, as amended;

(2) Any community residential alternative as defined in paragraph (4) of Section 3 of the Community Residential Alternatives Licensing Act, as amended; and

(3) Any child care facility as defined in Section 2.05 of the Child Care Act of 1969, as amended.

(b) "Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-195. The Criminal Code of 1961 is amended by changing Sections 12-19, 12-21, and 26-1 as follows:

(720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

(Section scheduled to be repealed on July 1, 2011)

Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care Facility Resident.

(a) Any person or any owner or licensee of a long term care facility who abuses a long term care facility resident is guilty of a Class 3 felony. Any person or any owner or licensee of a long term care facility who criminally neglects a long term care facility resident is guilty of a Class 4 felony. A person whose criminal neglect of a long term care facility resident results in the resident's death is guilty of a Class 3 felony. However, nothing herein shall be deemed to apply to a physician licensed to practice medicine in all its branches or a duly licensed nurse providing care within the scope of his or her professional judgment and within the accepted standards of care within the community.

(b) Notwithstanding the penalties in subsections (a) and (c) and in addition thereto, if a licensee or owner of a long term care facility or his or her employee has caused neglect of a resident, the licensee or owner is guilty of a petty offense. An owner or licensee is guilty under this subsection (b) only if the owner or licensee failed to exercise reasonable care in the hiring, training, supervising or providing of staff or other related routine administrative responsibilities.

(c) Notwithstanding the penalties in subsections (a) and (b) and in addition thereto, if a licensee or owner of a long term care facility or his or her employee has caused gross

neglect of a resident, the licensee or owner is guilty of a business offense for which a fine of not more than \$10,000 may be imposed. An owner or licensee is guilty under this subsection (c) only if the owner or licensee failed to exercise reasonable care in the hiring, training, supervising or providing of staff or other related routine administrative responsibilities.

(d) For the purpose of this Section:

(1) "Abuse" means intentionally or knowingly causing any physical or mental injury or committing any sexual offense set forth in this Code.

(2) "Criminal neglect" means an act whereby a person recklessly (i) performs acts that cause an elderly person's or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate or that create the substantial likelihood that an elderly person's or person with a disability's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate, or (ii) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of an elderly person or person with a disability, and that failure causes the elderly person's or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate or that create the substantial likelihood that

an elderly person's or person with a disability's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate, or (iii) abandons an elderly person or person with a disability.

(3) "Neglect" means negligently failing to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury or the deterioration of a physical or mental condition.

(4) "Resident" means a person residing in a long term care facility.

(5) "Owner" means the person who owns a long term care facility as provided under the Nursing Home Care Act, a facility as provided under the Specialized Mental Health Rehabilitation Act, a facility as provided under the MR/DD Community Care Act, or an assisted living or shared housing establishment under the Assisted Living and Shared Housing Act.

(6) "Licensee" means the individual or entity licensed to operate a facility under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, the MR/DD Community Care Act, or the Assisted Living and Shared Housing Act.

(7) "Facility" or "long term care facility" means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated

pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by the State of Illinois or a political subdivision thereof, which provides, through its ownership or management, personal care, sheltered care or nursing for 3 or more persons not related to the owner by blood or marriage. The term also includes skilled nursing facilities and intermediate care facilities as defined in Title XVIII and Title XIX of the federal Social Security Act and assisted living establishments and shared housing establishments licensed under the Assisted Living and Shared Housing Act.

(e) Nothing contained in this Section shall be deemed to apply to the medical supervision, regulation or control of the remedial care or treatment of residents in a facility conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination and which is licensed in accordance with Section 3-803 of the Nursing Home Care Act, Section 3-803 of the Specialized Mental Health Rehabilitation Act, or Section 3-803 of the MR/DD Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10. Repealed by P.A. 96-1551, eff. 7-1-11.)

(720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

Sec. 12-21. Criminal abuse or neglect of an elderly person or person with a disability.

(a) A person commits the offense of criminal abuse or neglect of an elderly person or person with a disability when he or she is a caregiver and he or she knowingly:

(1) performs acts that cause the elderly person or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; or

(2) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the elderly person or person with a disability and such failure causes the elderly person or person with a disability's life to be endangered, health to be injured or pre-existing physical or mental condition to deteriorate; or

(3) abandons the elderly person or person with a disability; or

(4) physically abuses, harasses, intimidates, or interferes with the personal liberty of the elderly person or person with a disability or exposes the elderly person or person with a disability to willful deprivation.

Criminal abuse or neglect of an elderly person or person with a disability is a Class 3 felony. Criminal neglect of an elderly person or person with a disability is a Class 2 felony if the criminal neglect results in the death of the person neglected for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3

years and not more than 14 years.

(b) For purposes of this Section:

(1) "Elderly person" means a person 60 years of age or older who is incapable of adequately providing for his own health and personal care.

(2) "Person with a disability" means a person who suffers from a permanent physical or mental impairment, resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of adequately providing for his own health and personal care.

(3) "Caregiver" means a person who has a duty to provide for an elderly person or person with a disability's health and personal care, at such person's place of residence, including but not limited to, food and nutrition, shelter, hygiene, prescribed medication and medical care and treatment.

"Caregiver" shall include:

(A) a parent, spouse, adult child or other relative by blood or marriage who resides with or resides in the same building with or regularly visits the elderly person or person with a disability, knows or reasonably should know of such person's physical or mental impairment and knows or reasonably should know that such person is unable to adequately provide for his own health and personal care;

(B) a person who is employed by the elderly person or person with a disability or by another to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care;

(C) a person who has agreed for consideration to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care; and

(D) a person who has been appointed by a private or public agency or by a court of competent jurisdiction to provide for the elderly person or person with a disability's health and personal care.

"Caregiver" shall not include a long-term care facility licensed or certified under the Nursing Home Care Act or a facility licensed or certified under the MR/DD Community Care Act or the Specialized Mental Health Rehabilitation Act, or any administrative, medical or other personnel of such a facility, or a health care provider who is licensed under the Medical Practice Act of 1987 and renders care in the ordinary course of his profession.

(4) "Abandon" means to desert or knowingly forsake an elderly person or person with a disability under circumstances in which a reasonable person would continue to provide care and custody.

(5) "Willful deprivation" has the meaning ascribed to it in paragraph (15) of Section 103 of the Illinois Domestic Violence Act of 1986.

(c) Nothing in this Section shall be construed to limit the remedies available to the victim under the Illinois Domestic Violence Act.

(d) Nothing in this Section shall be construed to impose criminal liability on a person who has made a good faith effort to provide for the health and personal care of an elderly person or person with a disability, but through no fault of his own has been unable to provide such care.

(e) Nothing in this Section shall be construed as prohibiting a person from providing treatment by spiritual means through prayer alone and care consistent therewith in lieu of medical care and treatment in accordance with the tenets and practices of any church or religious denomination of which the elderly person or person with a disability is a member.

(f) It is not a defense to criminal abuse or neglect of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability.

(Source: P.A. 96-339, eff. 7-1-10.)

(720 ILCS 5/26-1) (from Ch. 38, par. 26-1)
Sec. 26-1. Elements of the Offense.

(a) A person commits disorderly conduct when he knowingly:

(1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(2) Transmits or causes to be transmitted in any manner to the fire department of any city, town, village or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(3) Transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place that its explosion or release would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place; or

(4) Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense will be committed, is being

committed, or has been committed; or

(5) Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(6) While acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(7) Transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the "Abused and Neglected Child Reporting Act"; or

(8) Transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act; or

(9) Transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required; or

(10) Transmits or causes to be transmitted a false report under Article II of "An Act in relation to victims of violence and abuse", approved September 16, 1984, as amended; or

(11) Transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting such a report is necessary for the safety and welfare of the public; or

(12) Calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency; or

(13) Transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session.

(b) Sentence. A violation of subsection (a)(1) of this Section is a Class C misdemeanor. A violation of subsection (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A violation of subsection (a)(8) or (a)(10) of this Section is a Class B misdemeanor. A violation of subsection (a)(2), (a)(4),

(a) (7), (a) (9), (a) (12), or (a) (13) of this Section is a Class 4 felony. A violation of subsection (a) (3) of this Section is a Class 3 felony, for which a fine of not less than \$3,000 and no more than \$10,000 shall be assessed in addition to any other penalty imposed.

A violation of subsection (a) (6) of this Section is a Business Offense and shall be punished by a fine not to exceed \$3,000. A second or subsequent violation of subsection (a) (7) or (a) (11) of this Section is a Class 4 felony. A third or subsequent violation of subsection (a) (5) of this Section is a Class 4 felony.

(c) In addition to any other sentence that may be imposed, a court shall order any person convicted of disorderly conduct to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. In addition, whenever any person is placed on supervision for an alleged offense under this Section, the supervision shall be conditioned upon the performance of the community service.

This subsection does not apply when the court imposes a sentence of incarceration.

(d) In addition to any other sentence that may be imposed, the court shall order any person convicted of disorderly conduct under paragraph (3) of subsection (a) involving a false alarm of a threat that a bomb or explosive device has been

placed in a school to reimburse the unit of government that employs the emergency response officer or officers that were dispatched to the school for the cost of the search for a bomb or explosive device. For the purposes of this Section, "emergency response" means any incident requiring a response by a police officer, a firefighter, a State Fire Marshal employee, or an ambulance.

(Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09; 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff. 1-1-11.)

Section 90-200. The Unified Code of Corrections is amended by changing Section 5-5-3.2 as follows:

(730 ILCS 5/5-5-3.2)

(Text of Section before amendment by P.A. 96-1551)

Sec. 5-5-3.2. Factors in Aggravation and Extended-Term Sentencing.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

- (1) the defendant's conduct caused or threatened serious harm;
- (2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other

individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961,

teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the

time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a

felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person;

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images;

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation; ~~or~~

(26) the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context; or

(27) the defendant committed the offense of first degree murder, assault, aggravated assault, battery,

aggravated battery, robbery, armed robbery, or aggravated robbery against a person who was a veteran and the defendant knew, or reasonably should have known, that the person was a veteran performing duties as a representative of a veterans' organization. For the purposes of this paragraph (27), "veteran" means an Illinois resident who has served as a member of the United States Armed Forces, a member of the Illinois National Guard, or a member of the United States Reserve Forces; and "veterans' organization" means an organization comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, may be

considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social

group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted

of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery

(720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/12-14.1).

(5) When a defendant is convicted of a felony violation

of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical

assistance or first aid personnel, or hospital emergency room personnel.

(d) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(e) The court may impose an extended term sentence under Article 4.5 of Chapter V upon an offender who has been convicted of a felony violation of Section 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the victim of the offense is under 18 years of age at the time of the commission of the offense and, during the commission of the offense, the victim was under the influence of alcohol, regardless of whether or not the alcohol was supplied by the offender; and the offender, at the time of the commission of the offense, knew or should have known that the victim had consumed alcohol.

(Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390, eff. 1-1-11; revised 9-16-10.)

(Text of Section after amendment by P.A. 96-1551)

Sec. 5-5-3.2. Factors in Aggravation and Extended-Term Sentencing.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's

property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 11-0.1 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11, 11-14.4 except for an offense that involves keeping a place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on

the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a) (4) or (g) (1), of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a) (4) or (g) (1), of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning

ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person;

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images;

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation;

(26) the defendant committed the offense of child pornography or aggravated child pornography, specifically

including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context; or

(27) the defendant committed the offense of first degree murder, assault, aggravated assault, battery, aggravated battery, robbery, armed robbery, or aggravated robbery against a person who was a veteran and the defendant knew, or reasonably should have known, that the person was a veteran performing duties as a representative of a veterans' organization. For the purposes of this paragraph (27), "veteran" means an Illinois resident who has served as a member of the United States Armed Forces, a member of the Illinois National Guard, or a member of the United States Reserve Forces; and "veterans' organization" means an organization comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary

purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of

wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons

to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault

or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 11-1.40 or subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/11-1.40 or 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled

substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(d) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(e) The court may impose an extended term sentence under Article 4.5 of Chapter V upon an offender who has been convicted of a felony violation of Section 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the victim of the offense is under 18 years of age at the time of the commission of the offense and, during the commission of the

offense, the victim was under the influence of alcohol, regardless of whether or not the alcohol was supplied by the offender; and the offender, at the time of the commission of the offense, knew or should have known that the victim had consumed alcohol.

(Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390, eff. 1-1-11; 96-1551, Article 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065, eff. 7-1-11; revised 4-18-11.)

Section 90-205. The Secure Residential Youth Care Facility Licensing Act is amended by changing Section 45-10 as follows:

(730 ILCS 175/45-10)

Sec. 45-10. Definitions. As used in this Act:

"Department" means the Illinois Department of Corrections.

"Director" means the Director of Corrections.

"Secure residential youth care facility" means a facility (1) where youth are placed and reside for care, treatment, and custody; (2) that is designed and operated so as to ensure that all entrances and exits from the facility, or from a building or distinct part of a building within the facility, are under

the exclusive control of the staff of the facility, whether or not the youth has freedom of movement within the perimeter of the facility or within the perimeter of a building or distinct part of a building within the facility; and (3) that uses physically restrictive construction including, but not limited to, locks, bolts, gates, doors, bars, fences, and screen barriers. This definition does not include jails, prisons, detention centers, or other such correctional facilities; State operated mental health facilities; or facilities operating as psychiatric hospitals under a license pursuant to the MR/DD Community Care Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the Hospital Licensing Act.

"Youth" means an adjudicated delinquent who is 18 years of age or under and is transferred to the Department pursuant to Section 3-10-11 of the Unified Code of Corrections.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 90-210. The Code of Civil Procedure is amended by changing Section 2-203 as follows:

(735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

Sec. 2-203. Service on individuals.

(a) Except as otherwise expressly provided, service of summons upon an individual defendant shall be made (1) by leaving a copy of the summons with the defendant personally,

(2) by leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the contents of the summons, provided the officer or other person making service shall also send a copy of the summons in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode, or (3) as provided in Section 1-2-9.2 of the Illinois Municipal Code with respect to violation of an ordinance governing parking or standing of vehicles in cities with a population over 500,000. The certificate of the officer or affidavit of the person that he or she has sent the copy in pursuance of this Section is evidence that he or she has done so. No employee of a facility licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the MR/DD Community Care Act shall obstruct an officer or other person making service in compliance with this Section.

(b) The officer, in his or her certificate or in a record filed and maintained in the Sheriff's office, or other person making service, in his or her affidavit or in a record filed and maintained in his or her employer's office, shall (1) identify as to sex, race, and approximate age the defendant or other person with whom the summons was left and (2) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the summons was left with the defendant or other person.

(c) Any person who knowingly sets forth in the certificate or affidavit any false statement, shall be liable in civil contempt. When the court holds a person in civil contempt under this Section, it shall award such damages as it determines to be just and, when the contempt is prosecuted by a private attorney, may award reasonable attorney's fees.

(Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

Section 90-215. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2BBB as follows:

(815 ILCS 505/2BBB)

Sec. 2BBB. Long term care facility, ~~or~~ MR/DD facility, or specialized mental health rehabilitation facility; Consumer Choice Information Report. A long term care facility that fails to comply with Section 2-214 of the Nursing Home Care Act or a facility that fails to comply with Section 2-214 of the MR/DD Community Care Act or Section 2-214 of the Specialized Mental Health Rehabilitation Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

ARTICLE 95. NONACCELERATION

Section 95-95. No acceleration or delay. Where this Act

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makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

ARTICLE 99. EFFECTIVE DATE

Section 99-99. Effective date. This Act takes effect upon becoming law.