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(210 ILCS 45/Art. I heading)

#### ARTICLE I

#### SHORT TITLE AND DEFINITIONS

(210 ILCS 45/1-101) (from Ch. 111 1/2, par. 4151-101)

Sec. 1-101. This Act shall be known and may be cited as the Nursing Home Care Act.

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

(210 ILCS 45/1-102) (from Ch. 111 1/2, par. 4151-102)

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

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

(210 ILCS 45/1-103) (from Ch. 111 1/2, par. 4151-103)

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

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

(210 ILCS 45/1-104) (from Ch. 111 1/2, par. 4151-104)

Sec. 1-104. "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;
- (5) Observe all areas of the facility except the living area of any resident who protests the observation.

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

(210 ILCS 45/1-105) (from Ch. 111 1/2, par. 4151-105)

Sec. 1-105. "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.

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

(210 ILCS 45/1-106) (from Ch. 111 1/2, par. 4151-106)

Sec. 1-106. "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.

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

(210 ILCS 45/1-107) (from Ch. 111 1/2, par. 4151-107)

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

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

(210 ILCS 45/1-108.1) (from Ch. 111 1/2, par. 4151-108.1)

Sec. 1-108.1. "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.

(Source: P.A. 84-798.)

(210 ILCS 45/1-109) (from Ch. 111 1/2, par. 4151-109)

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

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

(210 ILCS 45/1-110) (from Ch. 111 1/2, par. 4151-110)

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

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

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

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

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

(210 ILCS 45/1-112) (from Ch. 111 1/2, par. 4151-112)

Sec. 1-112. "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.  
(Source: P.A. 81-223.)

(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;

(12) A facility licensed under the ID/DD Community Care Act;

(13) A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013;

(14) A facility licensed under the MC/DD Act; or

(15) A medical foster home, as defined in 38 CFR 17.73, that is under the oversight of the United States Department of Veterans Affairs.

(Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15; 99-376, eff. 1-1-16; 99-642, eff. 7-28-16.)

(210 ILCS 45/1-114) (from Ch. 111 1/2, par. 4151-114)

Sec. 1-114. "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.

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

(210 ILCS 45/1-114.005)

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.

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

(210 ILCS 45/1-114.01)

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.

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

(210 ILCS 45/1-114.1) (from Ch. 111 1/2, par. 4151-114.1)

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

(Source: P.A. 81-1349.)

(210 ILCS 45/1-115) (from Ch. 111 1/2, par. 4151-115)

Sec. 1-115. "Licensee" means the individual or entity licensed by the Department to operate the facility.  
(Source: P.A. 83-1530.)

(210 ILCS 45/1-116) (from Ch. 111 1/2, par. 4151-116)

Sec. 1-116. "Maintenance" means food, shelter and laundry services.  
(Source: P.A. 81-223.)

(210 ILCS 45/1-116.5)

Sec. 1-116.5. "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.  
(Source: P.A. 94-26, eff. 1-1-06.)

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

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

(210 ILCS 45/1-118) (from Ch. 111 1/2, par. 4151-118)

Sec. 1-118. "Nurse" means a registered nurse or a licensed practical nurse as defined in the Nurse Practice Act.  
(Source: P.A. 95-639, eff. 10-5-07.)

(210 ILCS 45/1-119) (from Ch. 111 1/2, par. 4151-119)

Sec. 1-119. "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.  
(Source: P.A. 81-223.)

(210 ILCS 45/1-120) (from Ch. 111 1/2, par. 4151-120)

Sec. 1-120. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs or 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 person whether or not a guardian has been appointed for such individual.  
(Source: P.A. 81-223.)

(210 ILCS 45/1-120.3)

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 and 3 days following the admitting facility's receipt of an Identified Offender Report and Recommendation in accordance with Section 2-201.6.

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

(210 ILCS 45/1-120.7)

Sec. 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.

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

(210 ILCS 45/1-121) (from Ch. 111 1/2, par. 4151-121)

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

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

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

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

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

(210 ILCS 45/1-123) (from Ch. 111 1/2, par. 4151-123)

Sec. 1-123. "Resident's representative" means a person other than the owner not related to the resident, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian.

(Source: P.A. 97-869, eff. 7-30-12; 98-149, eff. 8-2-13.)

(210 ILCS 45/1-124) (from Ch. 111 1/2, par. 4151-124)

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

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

(210 ILCS 45/1-125) (from Ch. 111 1/2, par. 4151-125)

Sec. 1-125. "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.

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

(210 ILCS 45/1-125.1) (from Ch. 111 1/2, par. 4151-125.1)

Sec. 1-125.1. "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:

- (1) is an academic credit requirement in a high school or undergraduate or graduate institution;
- (2) immediately succeeds a full quarter, semester, or trimester of academic enrollment in either a high school or undergraduate or graduate institution, provided that

such person is registered for another full quarter, semester, or trimester of academic enrollment in either a high school or undergraduate or graduate institution, which quarter, semester, or trimester will commence immediately following the term of employment; or

(3) immediately succeeds graduation from the high school or undergraduate or graduate institution.

(Source: P.A. 98-121, eff. 7-30-13; 99-78, eff. 7-20-15.)

(210 ILCS 45/1-126) (from Ch. 111 1/2, par. 4151-126)

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

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

(210 ILCS 45/1-127) (from Ch. 111 1/2, par. 4151-127)

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

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

(210 ILCS 45/1-128) (from Ch. 111 1/2, par. 4151-128)

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

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

(210 ILCS 45/1-128.5)

Sec. 1-128.5. Type "AA" violation. A "Type 'AA' 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 proximately caused a resident's death.

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

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

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.

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

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

Sec. 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 that is more likely than not to cause more than minimal physical or mental harm to a resident.

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

(210 ILCS 45/1-132)

Sec. 1-132. Type "C" violation. A "Type 'C' 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 creates a substantial probability that less than minimal physical or

mental harm to a resident will result therefrom.  
(Source: P.A. 96-1372, eff. 7-29-10.)

(210 ILCS 45/Art. II heading)  
ARTICLE II  
RIGHTS AND RESPONSIBILITIES

(210 ILCS 45/Art. II Pt. 1 heading)  
PART 1. RESIDENT RIGHTS

(210 ILCS 45/2-101) (from Ch. 111 1/2, par. 4152-101)  
Sec. 2-101. 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 status as a resident of a facility.  
(Source: P.A. 81-223.)

(210 ILCS 45/2-101.1) (from Ch. 111 1/2, par. 4152-101.1)  
Sec. 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).  
(Source: P.A. 95-331, eff. 8-21-07.)

(210 ILCS 45/2-102) (from Ch. 111 1/2, par. 4152-102)  
Sec. 2-102. A resident shall be permitted to manage his own financial affairs unless he or his guardian or if the resident is a minor, his parent, authorizes the administrator of the facility in writing to manage such resident's financial affairs under Section 2-201 of this Act.  
(Source: P.A. 81-223.)

(210 ILCS 45/2-103) (from Ch. 111 1/2, par. 4152-103)  
Sec. 2-103. A resident shall be permitted to retain and use or wear his personal property in his 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.  
(Source: P.A. 87-549.)

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

Sec. 2-104. (a) A resident shall be permitted to retain the services of his own personal physician at his 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 own physician or the physician attached to the facility complete and current information concerning his 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 total care and medical treatment to the extent that his condition permits. No resident shall be subjected to experimental research or treatment without first obtaining his 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.

The institutional review board requirements of this subsection (a) do not apply to investigational drugs, biological products, or devices used by a resident with a terminal illness as set forth in the Right to Try Act.

(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.

All physician's orders and plans of treatment shall have the authentication of the physician. For the purposes of this subsection (b), "authentication" means an original written signature or an electronic signature system that allows for the verification of a signer's credentials. A stamp signature, with or without initials, is not sufficient.

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 clinical and other records concerning his care and maintenance kept by the facility or by his physician. The facility may charge a reasonable fee for duplication of a record.

(Source: P.A. 99-270, eff. 1-1-16.)

(210 ILCS 45/2-104.1) (from Ch. 111 1/2, par. 4152-104.1)

Sec. 2-104.1. 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.

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

(210 ILCS 45/2-104.2) (from Ch. 111 1/2, par. 4152-104.2)

Sec. 2-104.2. Do-Not-Resuscitate Orders and Department of Public Health Uniform POLST form.

(a) Every facility licensed under this Act shall establish a policy for the implementation of practitioner orders concerning cardiopulmonary resuscitation (CPR) or life-sustaining treatment including, but not limited to, "Do-Not-Resuscitate" orders. This policy may only prescribe the format, method of documentation and duration of any practitioner orders. Any orders under this policy shall be honored by the facility. The Department of Public Health Uniform POLST form under Section 2310-600 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois, or a copy of that form or a previous version of the uniform form, 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.

(Source: P.A. 98-1110, eff. 8-26-14; 99-319, eff. 1-1-16.)

(210 ILCS 45/2-104.3)

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

(a) All persons admitted to a nursing home 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 nursing 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 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 performing the rescreening and (ii) a community provider or long-term care facility. (Source: P.A. 96-1372, eff. 7-29-10.)

(210 ILCS 45/2-105) (from Ch. 111 1/2, par. 4152-105)

Sec. 2-105. A resident shall be permitted respect and privacy in his 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 his permission to be present. (Source: P.A. 81-223.)

(210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

Sec. 2-106. (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.

(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.

(Source: P.A. 97-135, eff. 7-14-11.)

(210 ILCS 45/2-106.1)

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 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.

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

(210 ILCS 45/2-106a)

Sec. 2-106a. Resident identification wristlet. An identification wristlet may be employed for any resident upon a physician's order, which shall document the need for the identification wristlet in the resident's clinical record. A facility may require a resident residing in an Alzheimer's disease unit with a history of wandering to wear an identification wristlet, unless the resident's guardian or power of attorney directs that the wristlet be removed. All identification wristlets shall include, at a minimum, the resident's name and the name, telephone number, and address of the facility issuing the identification wristlet.

(Source: P.A. 100-293, eff. 1-1-18.)

(210 ILCS 45/2-107) (from Ch. 111 1/2, par. 4152-107)

Sec. 2-107. 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".

(Source: P.A. 82-120.)

(210 ILCS 45/2-108) (from Ch. 111 1/2, par. 4152-108)

Sec. 2-108. Every resident shall be permitted unimpeded, private and uncensored communication of his 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.

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

(210 ILCS 45/2-109) (from Ch. 111 1/2, par. 4152-109)

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

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

(210 ILCS 45/2-110) (from Ch. 111 1/2, par. 4152-110)

Sec. 2-110. (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, to verify compliance with the requirements of Public Act 94-163 and this amendatory Act of the 94th General Assembly, or to verify compliance with applicable terms of probation, parole, aftercare release, 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 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, including, but not limited to, the State Long Term Care Ombudsman Program, otherwise permitted or required by federal or State law to enter and inspect a facility or communicate privately and without restriction with a resident who consents to the communication, regardless of the consent of, or withholding of consent by, a legal guardian or an agent named in a power of attorney executed by the resident.

(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.

(Source: P.A. 98-558, eff. 1-1-14; 98-989, eff. 1-1-15.)

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

Sec. 2-111. A resident may be discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his 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 guardian or if the resident is a minor, his 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.

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

(210 ILCS 45/2-112) (from Ch. 111 1/2, par. 4152-112)

Sec. 2-112. A resident shall be permitted to present

grievances on behalf of himself 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.

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

(210 ILCS 45/2-113) (from Ch. 111 1/2, par. 4152-113)

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

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

(210 ILCS 45/2-114)

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.

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

(210 ILCS 45/2-115)

Sec. 2-115. Authorized electronic monitoring of a resident's room. A resident shall be permitted to conduct authorized electronic monitoring of the resident's room through the use of electronic monitoring devices placed in the room pursuant to the Authorized Electronic Monitoring in Long-Term Care Facilities Act.

(Source: P.A. 99-430, eff. 1-1-16.)

(210 ILCS 45/Art. II Pt. 2 heading)

#### PART 2. RESPONSIBILITIES

(210 ILCS 45/2-201) (from Ch. 111 1/2, par. 4152-201)

Sec. 2-201. 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), (b) their obligation to comply with the asset and income disclosure requirements of Title XIX of the federal Social Security Act and the regulations duly promulgated thereunder, except that this item (b) does not apply to facilities operated by the Illinois Department of Veterans' Affairs that do not participate in Medicaid, and (c) 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 and understands that failure to comply with asset and income disclosure requirements may result in the denial of Medicaid eligibility.

(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 Insurance 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 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 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.

(Source: P.A. 98-523, eff. 8-23-13.)

(210 ILCS 45/2-201.5)

Sec. 2-201.5. Screening prior to admission.

(a) All persons age 18 or older seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source. Screening for nursing 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. This Section applies on and after July 1, 1996. No later than October 1, 2010, 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 file administrative rules providing 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) Any screening performed pursuant to subsection (a) of this Section shall include a determination of whether any person is being considered for admission to a nursing facility due to a need for mental health services. 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 supported 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 nursing home 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 nursing 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 nursing 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, except for those licensed under the MC/DD Act, shall, within 24 hours after admission, request a criminal history background check pursuant to the Illinois Uniform Conviction Information Act for all persons age 18 or older seeking admission to the facility, unless (i) a background check was initiated by a hospital pursuant to subsection (d) of Section 6.09 of the Hospital Licensing Act or a pre-admission background check was conducted by the Department of Veterans' Affairs 30 days prior to admittance into an Illinois Veterans Home; (ii) the transferring resident is immobile; or (iii) the transferring resident is moving into hospice. The exemption provided in item (ii) or (iii) of this subsection (b) shall apply only if a background check was completed by the facility the resident resided at prior to seeking admission to the facility and the resident was transferred to the facility with no time passing during which the resident was not institutionalized. If item (ii) or (iii) of this subsection (b) applies, the prior facility shall provide a copy of its background check of the resident and all supporting documentation, including, when applicable, the

criminal history report and the security assessment, to the facility to which the resident is being transferred. 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 Illinois 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.

(Source: P.A. 99-180, eff. 7-29-15; 99-314, eff. 8-7-15; 99-453, eff. 8-24-15; 99-642, eff. 7-28-16.)

(210 ILCS 45/2-201.6)

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 (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.

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

(210 ILCS 45/2-201.7)

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

(a) The purpose of this Section is to establish a pilot program based in Cook and Will counties in which an expanded

criminal history background check screening process will be utilized to better identify residents of licensed long term care facilities who, because of their criminal histories, may pose a risk to other vulnerable residents.

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

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

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

(e) The cost of the expanded criminal history background checks conducted pursuant to the pilot program shall not exceed \$50 per resident and shall be paid by the facility. The Department of State Police shall implement all potential measures to minimize the cost of the expanded criminal history background checks to the participating long term care facilities.

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

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

(210 ILCS 45/2-202) (from Ch. 111 1/2, par. 4152-202)

Sec. 2-202. (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 has been adjudicated a "person with a disability" 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 "person with a disability", 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 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.

If a person has not executed a contract as required by this Section, then such a contract shall be executed on or before July 1, 1981, or within 10 days after the disposition of a petition for guardianship or modification of guardianship that was filed prior to July 1, 1981, whichever is later.

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.

Before a licensee enters into a contract under this Section, it shall provide the resident or prospective resident and his or her guardian, if any, with a copy of the licensee's policy regarding the assignment of Social Security representative payee status as a condition of the contract when the resident's or prospective resident's care is being funded under Title XIX of the Social Security Act and Article V of the Illinois Public Aid Code.

(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 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 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 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.

(Source: P.A. 98-104, eff. 7-22-13; 99-143, eff. 7-27-15.)

(210 ILCS 45/2-203) (from Ch. 111 1/2, par. 4152-203)

Sec. 2-203. 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 programing 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, the Long-Term Care Facility Advisory Board created by Section 2-204, or to any other person it considers appropriate.

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

(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 Act of 2013, 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. 97-38, eff. 6-28-11; 98-104, eff. 7-22-13; 98-463, eff. 8-16-13.)

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

Sec. 2-205. 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 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.

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

(210 ILCS 45/2-206) (from Ch. 111 1/2, par. 4152-206)

Sec. 2-206. (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.

(Source: P.A. 81-1349.)

(210 ILCS 45/2-207) (from Ch. 111 1/2, par. 4152-207)

Sec. 2-207. (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.

(Source: P.A. 81-1349.)

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

Sec. 2-208. 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.

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

(210 ILCS 45/2-209) (from Ch. 111 1/2, par. 4152-209)

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

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

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

Sec. 2-210. 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.

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

(210 ILCS 45/2-211) (from Ch. 111 1/2, par. 4152-211)

Sec. 2-211. 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, both the resident and the parent, guardian or other person acting for the resident shall be fully informed of these rights.

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

(210 ILCS 45/2-212) (from Ch. 111 1/2, par. 4152-212)

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

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

(210 ILCS 45/2-213)

Sec. 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, 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.

(d) A skilled nursing facility shall designate a person or persons as Infection Prevention and Control Professionals to develop and implement policies governing control of infections and communicable diseases. The Infection Prevention and Control Professionals shall be qualified through education, training, experience, or certification or a combination of such qualifications. The Infection Prevention and Control Professional's qualifications shall be documented and shall be made available for inspection by the Department.

(e) The Department shall provide facilities with

educational information on all vaccines recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices, including, but not limited to, the risks associated with shingles and how to protect oneself against the varicella-zoster virus. A facility shall distribute the information to: (1) each resident who requests the information; and (2) each newly admitted resident. The facility may distribute the information to residents electronically.

(Source: P.A. 100-1042, eff. 1-1-19.)

(210 ILCS 45/2-214)

Sec. 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.

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

(210 ILCS 45/2-215)

Sec. 2-215. Conflicts with the Department of Veterans' Affairs Act. If there is a conflict between the provisions of this Act and the provisions of the Department of Veterans' Affairs Act concerning an Illinois Veterans Home not operated by the Department of Veterans' Affairs, then the provisions of this Act shall apply.

(Source: P.A. 100-143, eff. 1-1-18.)

(210 ILCS 45/2-216)

Sec. 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.

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

(210 ILCS 45/2-217)

Sec. 2-217. Order for transportation of resident by an

ambulance service provider. If a facility orders medi-car, service car, or ground ambulance transportation of a resident of the facility by an ambulance service provider, 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. Additionally, the facility must provide the ambulance service provider with a Physician Certification Statement on a form prescribed by the Department of Healthcare and Family Services in accordance with subsection (g) of Section 5-4.2 of the Illinois Public Aid Code. The facility shall provide a copy of the Physician Certification Statement to the ambulance service provider prior to or at the time of transport. The Physician Certification Statement is not required prior to the transport if a delay in transport can be expected to negatively affect the patient outcome; however, the facility shall provide a copy of the Physician Certification Statement to the ambulance service provider at no charge within 10 days after the request. A facility shall, upon request, furnish assistance to the transportation provider in the completion of the form if the Physician Certification Statement is incomplete. The facility must maintain the record for a period of at least 3 years after the date of the order for transportation by ambulance.

(Source: P.A. 100-646, eff. 7-27-18.)

(210 ILCS 45/Art. III heading)

ARTICLE III

LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES AND REMEDIES

(210 ILCS 45/Art. III Pt. 1 heading)

PART 1. LICENSING

(210 ILCS 45/3-101) (from Ch. 111 1/2, par. 4153-101)

Sec. 3-101. 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.

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

(210 ILCS 45/3-101.5)

Sec. 3-101.5. Illinois Veterans Homes. An Illinois Veterans Home licensed under this Act and operated by the Illinois Department of Veterans' Affairs is exempt from the license fee provisions of Section 3-103 of this Act and the provisions of Sections 3-104 through 3-106, 3-202.5, 3-208, 3-302, 3-303, and 3-503 through 3-517 of this Act. A monitor or receiver shall be placed in an Illinois Veterans Home only by court order or by agreement between the Director of Public Health, the Director of Veterans' Affairs, and the Secretary

of the United States Department of Veterans Affairs.  
(Source: P.A. 99-314, eff. 8-7-15.)

(210 ILCS 45/3-102) (from Ch. 111 1/2, par. 4153-102)

Sec. 3-102. No person may establish, operate, maintain, offer or advertise a facility within this State unless and until he 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-102.1) (from Ch. 111 1/2, par. 4153-102.1)

Sec. 3-102.1. If the Department is denied access to a private home, institution, building, residence 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 private home, institution, building, residence or place. 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.  
(Source: P.A. 83-1530.)

(210 ILCS 45/3-102.2)

Sec. 3-102.2. Supported congregate living arrangement demonstration. The Illinois Department may grant no more than 3 waivers from the requirements of this Act for facilities participating in the supported congregate living arrangement demonstration. A joint waiver request must be made by an applicant and the Department on Aging. If the Department on Aging does not act upon an application within 60 days, the applicant may submit a written waiver request on its own behalf. The waiver request must include a specific program plan describing the types of residents to be served and the services that will be provided in the facility. The Department shall conduct an on-site review at each facility annually or as often as necessary to ascertain compliance with the program plan. The Department may revoke the waiver if it determines that the facility is not in compliance with the program plan. Nothing in this Section prohibits the Department from conducting complaint investigations.

A facility granted a waiver under this Section is not subject to the Illinois Health Facilities Planning Act, unless it subsequently applies for a certificate of need to convert to a nursing facility. A facility applying for conversion shall meet the licensure and certificate of need requirements in effect as of the date of application, and this provision may not be waived.

(Source: P.A. 89-530, eff. 7-19-96.)

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

Sec. 3-103. 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. Facilities that pay a fee or assessment pursuant to Article V-C of the Illinois Public Aid Code shall be exempt from the license fee imposed under this item (2). 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, which has been created as a special fund in the State treasury. This special fund is to be used by the Department for expenses related to the appointment of monitors and receivers as contained in Sections 3-501 through 3-517 of this Act, for the enforcement of this Act, for expenses related to surveyor development, and for implementation of the Abuse Prevention Review Team Act. All federal moneys received as a result of expenditures from the Fund shall be deposited into the Fund. The Department may reduce or waive a penalty pursuant to Section 3-308 only if that action will not threaten the ability of the Department to meet the expenses required to be met by 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.

(Source: P.A. 96-758, eff. 8-25-09; 96-1372, eff. 7-29-10; 96-1504, eff. 1-27-11; 96-1530, eff. 2-16-11; 97-489, eff. 1-1-12.)

(210 ILCS 45/3-104) (from Ch. 111 1/2, par. 4153-104)

Sec. 3-104. 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.

(Source: P.A. 81-1349.)

(210 ILCS 45/3-105) (from Ch. 111 1/2, par. 4153-105)

Sec. 3-105. 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.

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

(210 ILCS 45/3-106) (from Ch. 111 1/2, par. 4153-106)

Sec. 3-106. (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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-107) (from Ch. 111 1/2, par. 4153-107)

Sec. 3-107. 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.

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

(210 ILCS 45/3-107.1) (from Ch. 111 1/2, par. 4153-107.1)

Sec. 3-107.1. 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.

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

(210 ILCS 45/3-108) (from Ch. 111 1/2, par. 4153-108)

Sec. 3-108. 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 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.

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

(210 ILCS 45/3-108a)

Sec. 3-108a. (Repealed).

(Source: P.A. 89-507, eff. 7-1-97. Repealed by P.A. 91-798, eff. 7-9-00.)

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

Sec. 3-109. 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 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.

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

(210 ILCS 45/3-110) (from Ch. 111 1/2, par. 4153-110)

Sec. 3-110. (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.

(Source: P.A. 87-549; 87-1102.)

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

Sec. 3-111. 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.

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

(210 ILCS 45/3-112) (from Ch. 111 1/2, par. 4153-112)

Sec. 3-112. (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.

(Source: P.A. 98-756, eff. 7-16-14.)

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

Sec. 3-113. 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.

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

(210 ILCS 45/3-114) (from Ch. 111 1/2, par. 4153-114)

Sec. 3-114. The transferor shall remain liable for all penalties assessed against the facility which are imposed for violations occurring prior to transfer of ownership.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-115) (from Ch. 111 1/2, par. 4153-115)

Sec. 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. The renewal application for a sheltered care or long-term care facility shall not be approved unless 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. If application for renewal is not timely filed, the Department shall so inform the licensee.  
(Source: P.A. 96-990, eff. 7-2-10; 96-1275, eff. 7-26-10; 97-333, eff. 8-12-11.)

(210 ILCS 45/3-116) (from Ch. 111 1/2, par. 4153-116)

Sec. 3-116. 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.  
(Source: P.A. 81-223.)

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

Sec. 3-117. 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.

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

(210 ILCS 45/3-118) (from Ch. 111 1/2, par. 4153-118)

Sec. 3-118. 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.

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

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

Sec. 3-119. (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 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.

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

(210 ILCS 45/3-120)

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

(a) No later than January 1, 2011, 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 certify distinct self-contained units within existing nursing homes for the behavioral management of persons with a high risk of aggression. The purpose of the certification program is to ensure that the safety of residents, employees, and the public is preserved.

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

(1) A security and safety assessment, completed before admission to a certified unit if an Identified Offender Report and Recommendation or other criminal risk analysis has not been completed, to identify existing or potential residents at risk of committing violent acts and determine appropriate preventive action to be taken. The assessment shall include, but need not be limited to, (i) a measure of the frequency of, (ii) an identification of the precipitating factors for, and (iii) the consequences of, violent acts. The security and safety assessment shall be in addition to any risk-of-harm assessment performed by a PAS screener, but may use the results of this or any other assessment. The security and safety assessment shall be completed by the same licensed forensic psychologist who prepares Identified Offender Reports and Recommendations for identified offenders.

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

(3) Room selection and appropriateness of roommate assignment.

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

(5) Supervision and monitoring.

(6) Staffing levels.

(7) Quality assurance and improvement.

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

(A) The violence escalation cycle.

(B) Violence predicting factors.

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

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

(E) Strategies to avoid physical harm.

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

(G) Appropriate treatment to reduce violent behavior.

(H) Documenting and reporting incidents of violence.

(I) The process whereby employees affected by a

violent act may be debriefed or calmed down and the tension of the situation may be reduced.

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

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

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

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

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

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

(c) A long term care facility found to be out of compliance with the certification requirements under Section 3-120 may be subject to denial, revocation, or suspension of the behavioral management unit 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.

(d) 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.

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

(210 ILCS 45/Art. III Pt. 2 heading)

#### PART 2. GENERAL PROVISIONS

(210 ILCS 45/3-201) (from Ch. 111 1/2, par. 4153-201)

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

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

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

Sec. 3-202. 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 nursing home used by residents of the nursing home 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. No later than July 1, 2008, the Department shall submit a report to the General Assembly concerning the impact of the changes made by this amendatory Act of the 95th General Assembly;

(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. 95-31, eff. 8-9-07.)

(210 ILCS 45/3-202.05)

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

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

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

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

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

Within 120 days of the effective date of this amendatory Act of the 97th General Assembly, the Department shall promulgate rules specific to the staffing requirements for facilities federally defined as Institutions for Mental Disease. These rules shall recognize the unique nature of individuals with chronic mental health conditions, shall include minimum requirements for specialized clinical staff, including clinical social workers, psychiatrists, psychologists, and direct care staff set forth in paragraphs (4) through (6) and any other specialized staff which may be utilized and deemed necessary to count toward staffing ratios.

Within 120 days of the effective date of this amendatory Act of the 97th General Assembly, the Department shall promulgate rules specific to the staffing requirements for facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013. These rules shall recognize the unique nature of individuals with chronic mental health conditions, shall include minimum requirements for specialized clinical staff, including clinical social workers, psychiatrists, psychologists, and direct care staff set forth in paragraphs (4) through (6) and any other specialized staff which may be utilized and deemed necessary to count toward staffing ratios.

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

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

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

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

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

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

(5) Effective January 1, 2014, the minimum staffing ratios shall be increased to 3.8 hours of nursing and personal care

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

(e) Ninety days after the effective date of this amendatory Act of the 97th General Assembly, a minimum of 25% of nursing and personal care time shall be provided by licensed nurses, with at least 10% of nursing and personal care time provided by registered nurses. These minimum requirements shall remain in effect until an acuity based registered nurse requirement is promulgated by rule concurrent with the adoption of the Resource Utilization Group classification-based payment methodology, as provided in Section 5-5.2 of the Illinois Public Aid Code. Registered nurses and licensed practical nurses employed by a facility in excess of these requirements may be used to satisfy the remaining 75% of the nursing and personal care time requirements. Notwithstanding this subsection, no staffing requirement in statute in effect on the effective date of this amendatory Act of the 97th General Assembly shall be reduced on account of this subsection.

(Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13.)

(210 ILCS 45/3-202.1) (from Ch. 111 1/2, par. 4153-202.1)

Sec. 3-202.1. 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.

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

(210 ILCS 45/3-202.2)

Sec. 3-202.2. Rules; residents with mental illness. No later than January 1, 2001, the Department of Public Health shall file with the Joint Committee on Administrative Rules, pursuant to the Illinois Administrative Procedure Act, a proposed rule, or a proposed amendment to an existing rule, regarding the provision of services, including assessment, care planning, discharge planning, and treatment, by nursing facilities to residents who have a serious mental illness.

(Source: P.A. 91-799, eff. 6-13-00.)

(210 ILCS 45/3-202.2a)

Sec. 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, nursing, and mental and psychosocial needs that are identified in the resident's comprehensive assessment, which allow 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 representative, as

applicable.

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

(210 ILCS 45/3-202.2b)

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

(a) No later than January 1, 2011, 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 for compliance with 77 Ill. Admin. Code 300.4000 and following (Subpart S), which provides for psychiatric rehabilitation services that are required to be offered by a long term care 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 long term care facility licensed under this Act is eligible to become certified under this Section and annually thereafter.

(b) No long term care 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 unsuspended, 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. The facility shall continue to adhere to all requirements of 77 Ill. Admin. Code 300.4000 until all residents with serious mental illness have been discharged.

(e) A long term care 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 Article III, Part 7 of this Act.

(f) The Department shall indicate, on its list of licensed long term care 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, Area Agencies on Aging, Case Coordination Units, 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 long term care 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 long term care 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) Certification requirements. The Department shall establish requirements for certification that augment current quality of care standards for long term care 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,

in addition to those contained in this Act on the effective date of this amendatory Act of the 96th General Assembly, 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.

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

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

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

(210 ILCS 45/3-202.3)

Sec. 3-202.3. (Repealed).

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

(210 ILCS 45/3-202.4)

Sec. 3-202.4. (Repealed).

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

(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 ID/DD Community Care Act or Section 3-202.5 of the MC/DD 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. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

(210 ILCS 45/3-202.6)

Sec. 3-202.6. Department of Veterans' Affairs facility plan review.

(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. A facility may submit architectural drawings and specifications for other construction projects for Department review according to subsection (b) of this Section. 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.

(b) The Department shall inform an applicant in writing within 15 working days after receiving drawings and specifications from the applicant whether the applicant's submission is complete or incomplete. Failure to provide the applicant with this notice within 15 working days after receiving drawings and specifications from the applicant shall result in the submission being deemed complete for purposes of initiating the 60-working-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 Department shall approve or disapprove drawings and specifications submitted to the Department no later than 60 working 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-working-day review period. If a submission of drawings and specifications is incomplete, the applicant may submit additional information. The 60-working-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 working days after receipt by the Department, 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 working days after 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 (e) of this Section 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 is deemed to have 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 not charge a fee in connection with its reviews to the Department of Veterans' Affairs.

(e) The Department shall conduct an on-site inspection of the completed project no later than 45 working 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 may extend this deadline if a federally mandated survey time frame takes precedence. The Department shall provide written approval for occupancy to the applicant within 7 working days after 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 (e), in which case the construction shall be deemed approved. Occupancy shall be authorized after any required health inspection by the Department has been conducted.

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

(g) Nothing in this Section shall be construed to apply to maintenance, upkeep, or renovation that does not affect the structural integrity or fire or life safety 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.

(h) If the number of licensed facilities increases or the number of beds for the currently licensed facilities increases, the Department has the right to reassess the mandated time frames listed in this Section.

(Source: P.A. 99-314, eff. 8-7-15.)

(210 ILCS 45/3-203) (from Ch. 111 1/2, par. 4153-203)

Sec. 3-203. In licensing any facility for persons suffering from emotional or behavioral disorders, the Department shall consult with the Department of Human Services in developing minimum standards for such persons.

(Source: P.A. 97-52, eff. 6-28-11.)

(210 ILCS 45/3-204) (from Ch. 111 1/2, par. 4153-204)

Sec. 3-204. 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.

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

(210 ILCS 45/3-205) (from Ch. 111 1/2, par. 4153-205)

Sec. 3-205. 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.

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

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

Sec. 3-206. 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 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 shall allow an individual to satisfy the supervised clinical experience requirement for placement on the Health Care Worker Registry under 77 Ill. Adm. Code 300.663 through supervised clinical experience at an assisted living establishment licensed under the Assisted Living and Shared Housing Act. The Department shall adopt rules requiring that the Health Care Worker Registry include information identifying where an individual on the Health Care Worker Registry received his or her clinical training.

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.

(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 Health Care Worker Registry under the Health Care Worker Background Check Act on or after January 1, 1996 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 Health Care Worker 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 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 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.

(Source: P.A. 100-297, eff. 8-24-17; 100-432, eff. 8-25-17; 100-863, eff. 8-14-18.)

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

Sec. 3-206.01. Health Care Worker Registry.

(a) 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 and the individual is listed on the Health Care Worker Registry as eligible to work for a health care employer. The facility shall not employ an individual as a nursing assistant, habilitation aide, or child care aide if that individual is not on the Health Care Worker Registry unless the individual is enrolled in a training program under paragraph (5) of subsection (a) of Section 3-206 of this Act. The Department may also maintain a publicly accessible registry.

(a-5) The Health Care Worker Registry maintained by the Department exclusive to health care employers, as defined in the Health Care Worker Background Check Act, shall clearly indicate whether an applicant or employee is eligible for employment and shall include the following:

(1) information about the individual, including the individual's name, his or her current address, Social Security number, the date and location of the training course completed by the individual, 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 record check, whether the individual has a waiver pending under Section 40 of the Health Care Worker Background Check Act, and whether the individual has received a waiver under Section 40 of that Act;

(2) the following language:

"A waiver granted by the Department of Public Health is a determination that the applicant or employee is eligible to work in a health care facility. The Equal Employment Opportunity Commission provides guidance about federal law regarding hiring of individuals with criminal records."; and

(3) a link to Equal Employment Opportunity Commission

guidance regarding hiring of individuals with criminal records.

(a-10) After January 1, 2017, the publicly accessible registry maintained by the Department shall report that an individual is ineligible to work if he or she has a disqualifying offense under Section 25 of the Health Care Worker Background Check Act and has not received a waiver under Section 40 of that Act. If an applicant or employee has received a waiver for one or more disqualifying offenses under Section 40 of the Health Care Worker Background Check Act and he or she is otherwise eligible to work, the Department of Public Health shall report on the public registry that the applicant or employee is eligible to work. The Department, however, shall not report information regarding the waiver on the public registry.

(a-15) (Blank).

(b) (Blank).

(Source: P.A. 99-78, eff. 7-20-15; 99-872, eff. 1-1-17; 100-432, eff. 8-25-17.)

(210 ILCS 45/3-206.02)

Sec. 3-206.02. (Repealed).

(Source: P.A. 96-1372, eff. 7-29-10. Repealed by P.A. 100-432, eff. 8-25-17.)

(210 ILCS 45/3-206.03)

Sec. 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.

(Source: P.A. 91-461, eff. 8-6-99.)

(210 ILCS 45/3-206.04)

Sec. 3-206.04. Certified Nurse Assistant Career Ladders Program. The Department shall convene a task force to determine the feasibility and curriculum for a Certified Nurse Assistant Career Ladders Program. Any such program shall articulate with licensed practical nurse education. The task force shall be comprised of 2 members from Illinois public community college faculty, one of whom shall be a registered professional nurse, 2 members from the nursing home community, one of whom shall be a registered professional nurse, and representatives from the Department. The task force shall report its findings and recommendations to the General Assembly on or before January 1, 2002.

(Source: P.A. 92-190, eff. 8-1-01.)

(210 ILCS 45/3-206.05)

Sec. 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 registered nurse, a registered nurse, or a licensed practical nurse licensed under the Nurse Practice Act.

"Safe lifting equipment and accessories" means mechanical equipment designed to lift, move, reposition, and transfer residents, including, but not limited to, fixed and portable ceiling lifts, sit-to-stand lifts, slide sheets and boards, slings, and repositioning and turning sheets.

"Safe lifting team" means at least 2 individuals who are trained and proficient in the use of both safe lifting techniques and safe lifting equipment and accessories.

"Adjustable equipment" means products and devices that may be adapted for use by individuals with physical and other disabilities in order to optimize accessibility. Adjustable equipment includes, but is not limited to, the following:

(1) Wheelchairs with adjustable footrest height and seat width and depth.

(2) Height-adjustable, drop-arm commode chairs and height-adjustable shower gurneys or shower benches to enable individuals with mobility disabilities to use a toilet and to shower safely and with increased comfort.

(3) Accessible weight scales that accommodate wheelchair users.

(4) Height-adjustable beds that can be lowered to accommodate individuals with mobility disabilities in getting in and out of bed and that utilize drop-down side railings for stability and positioning support.

(5) Universally designed or adaptable call buttons and motorized bed position and height controls that can be operated by persons with limited or no reach range, fine motor ability, or vision.

(6) Height-adjustable platform tables for physical therapy with drop-down side railings for stability and positioning support.

(7) Therapeutic rehabilitation and exercise machines with foot straps to secure the user's feet to the pedals and with cuffs or splints to augment the user's grip strength on handles.

(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 and training of nurses and other direct resident care providers in the identification, assessment, and control of risks of injury to residents and nurses and other health care workers during resident handling and on safe lifting policies and techniques and current lifting equipment.

(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.

(8) Fostering and maintaining resident safety, dignity, self-determination, and choice, including the following policies, strategies, and procedures:

(A) The existence and availability of a trained safe lifting team.

(B) A policy of advising residents of a range of

transfer and lift options, including adjustable diagnostic and treatment equipment, mechanical lifts, and provision of a trained safe lifting team.

(C) The right of a competent resident, or the guardian of a resident adjudicated incompetent, to choose among the range of transfer and lift options consistent with the procedures set forth under subdivision (b)(5) and the policies set forth under this paragraph (8), subject to the provisions of subparagraph (E) of this paragraph (8).

(D) Procedures for documenting, upon admission and as status changes, a mobility assessment and plan for lifting, transferring, repositioning, or movement of a resident, including the choice of the resident or the resident's guardian among the range of transfer and lift options.

(E) Incorporation of such safe lifting procedures, techniques, and equipment as are consistent with applicable federal law.

(c) Safe lifting teams must receive specialized, in-depth training that includes, but need not be limited to, the following:

- (1) Types and operation of equipment.
- (2) Safe manual lifting and moving techniques.
- (3) Ergonomic principles in the assessment of risk both to nurses and other workers and to residents.
- (4) The selection, safe use, location, and condition of appropriate pieces of equipment individualized to each resident's medical and physical conditions and preferences.

(5) Procedures for advising residents of the full range of transfer and lift options and for documenting individualized lifting plans that include resident choice. Specialized, in-depth training may rely on federal standards and guidelines such as the United States Department of Labor Guidelines for Nursing Homes, supplemented by federal requirements for barrier removal, independent access, and means of accommodation optimizing independent movement and transfer.

(Source: P.A. 100-513, eff. 1-1-18.)

(210 ILCS 45/3-206.1) (from Ch. 111 1/2, par. 4153-206.1)

Sec. 3-206.1. 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.

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

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

Sec. 3-207. (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. (Source: P.A. 85-1183.)

(210 ILCS 45/3-208) (from Ch. 111 1/2, par. 4153-208)

Sec. 3-208. (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.

(c-5) A facility which is owned by a chain organization as defined by the Centers for Medicare and Medicaid Services shall submit annually to the Department a copy of the Home Office Cost Statement required to be submitted by the home office of the chain to the United States Department of Health and Human Services. This Home Office Cost Statement contains proprietary, privileged, and confidential information that shall not be placed on the World Wide Web. Any request from the public received by any public agency to disclose this Home Office Cost Statement shall be subject to the provisions of the Freedom of Information Act.

(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.  
(Source: P.A. 98-505, eff. 1-1-14.)

(210 ILCS 45/3-209) (from Ch. 111 1/2, par. 4153-209)

Sec. 3-209. 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.
- (Source: P.A. 81-1349.)

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

Sec. 3-210. 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 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.
- (Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09.)

(210 ILCS 45/3-211) (from Ch. 111 1/2, par. 4153-211)

Sec. 3-211. 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.  
(Source: P.A. 81-223.)

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

Sec. 3-212. Inspection.

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

(f) Notwithstanding any other provision of this Act, the Department shall, no later than 180 days after the effective

date of this amendatory Act of the 98th General Assembly, implement a single survey process that encompasses federal certification and State licensure requirements, health and life safety requirements, and an enhanced complaint investigation initiative.

(1) To meet the requirement of a single survey process, the portions of the health and life safety survey associated with federal certification and State licensure surveys must be started within 7 working days of each other. Nothing in this paragraph (1) of subsection (f) of this Section applies to a complaint investigation.

(2) The enhanced complaint and incident report investigation initiative shall permit the facility to challenge the amount of the fine due to the excessive length of the investigation which results in one or more of the following conditions:

(A) prohibits the timely development and implementation of a plan of correction;

(B) creates undue financial hardship impacting the quality of care delivered to the resident;

(C) delays initiation of corrective training; and

(D) negatively impacts quality assurance and patient improvement standards.

This paragraph (2) does not apply to complaint investigations exited within 14 working days or a situation that triggers an extended survey.

(Source: P.A. 98-104, eff. 7-22-13.)

(210 ILCS 45/3-213) (from Ch. 111 1/2, par. 4153-213)

Sec. 3-213. 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.

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

(210 ILCS 45/3-214) (from Ch. 111 1/2, par. 4153-214)

Sec. 3-214. 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 Sections 3-117 or 3-119 of this Act.

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

(210 ILCS 45/3-215) (from Ch. 111 1/2, par. 4153-215)

Sec. 3-215. 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.  
(Source: P.A. 87-1102.)

(210 ILCS 45/Art. III Pt. 3 heading)  
PART 3. VIOLATIONS AND PENALTIES

(210 ILCS 45/3-301) (from Ch. 111 1/2, par. 4153-301)  
Sec. 3-301. Determination of violation; notice; review team.

(a) If after receiving the report specified in subsection (c) of Section 3-212 the Director or his designee determines that a facility is in violation of this Act or of any rule promulgated thereunder, he 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 designee shall also inform the licensee of rights to a hearing under Section 3-703.

(b) The Department shall perform an audit of all Type "AA" or Type "A" violations between January 1, 2014 and January 1, 2015. The purpose of the audit is to determine the consistency of assigning Type "AA" and Type "A" violations. The audit shall be completed and a report submitted to the Long Term Care Advisory Committee by April 1, 2015 for comment. The report shall include recommendations for increasing the consistency of assignment of violations. The Committee may offer additional recommendations to be incorporated into the report. The final report shall be filed with the General Assembly by June 30, 2015.  
(Source: P.A. 98-104, eff. 7-22-13.)

(210 ILCS 45/3-302) (from Ch. 111 1/2, par. 4153-302)  
Sec. 3-302. 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.  
(Source: P.A. 85-1378.)

(210 ILCS 45/3-303) (from Ch. 111 1/2, par. 4153-303)  
Sec. 3-303. (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. 96-1372, eff. 7-29-10.)

(210 ILCS 45/3-303.1) (from Ch. 111 1/2, par. 4153-303.1)  
Sec. 3-303.1. Waiver of requirements.

(a) 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.

(b) 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:

(1) 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

(2) 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.

(c) Upon application by a facility, the Director may grant or renew a waiver, in whole or in part, of the registered nurse staffing requirements contained in subsection (e) of Section 3-202.05, considering the criteria in subsection (a) of this Section, if the facility demonstrates to the Director's satisfaction that the facility is unable, despite diligent efforts, including offering wages at a competitive rate for registered nurses in the community, to employ the required number of registered nurses and that the waivers will not endanger the health or safety of residents of the facility. A facility in compliance with the terms of a waiver granted under this subsection shall not be subject to fines or penalties imposed by the Department for violating the registered nurse staffing requirements of subsection (e) of Section 3-202.05. Nothing in this subsection (c) allows the Director to grant or renew a waiver of the minimum registered nurse staffing requirements contained in 42 CFR 483.35(b) to a facility that is Medicare-certified or to a facility that is both Medicare-certified and Medicaid-certified. Waivers granted under this subsection (c) shall be reviewed quarterly by the Department, including requiring a demonstration by the facility that it has continued to make diligent efforts to employ the required number of registered nurses, and shall be revoked for noncompliance with any of the following requirements:

(1) For periods in which the number of registered nurses required by law is not in the facility, a physician or registered nurse shall respond immediately to a telephone call from the facility.

(2) The facility shall notify the following of the waiver: the Office of the State Long Term Care Ombudsman, the residents of the facility, the residents' guardians, and the residents' representatives.

(d) 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 to the Long-Term Care Facility Advisory Board 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.

(Source: P.A. 100-201, eff. 8-18-17; 100-217, eff. 8-18-17.)

(210 ILCS 45/3-303.2) (from Ch. 111 1/2, par. 4153-303.2)  
Sec. 3-303.2. (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, 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. 96-1372, eff. 7-29-10.)

(210 ILCS 45/3-304) (from Ch. 111 1/2, par. 4153-304)

Sec. 3-304. (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 (formerly Director of the Department of Public Aid), 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.

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

(210 ILCS 45/3-304.1)

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 nursing homes;
- (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;
- (10) enforcement actions and enforcement summaries;
- (11) distressed facilities;
- (12) the report submitted under Section 3-518;
- (13) a link to the most recent facility cost report filed with the Department of Healthcare and Family Services;
- (14) a link to the most recent Consumer Choice Information Report filed with the Department on Aging;
- (15) whether the facility is part of a chain; the facility shall be deemed part of a chain if it meets criteria established by the United States Department of Health and Human Services that identify it as owned by a chain organization;
- (16) whether the facility is a for-profit or not-for-profit facility; and
- (17) whether the facility is or is part of a continuing care retirement community.

(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. 98-85, eff. 7-15-13; 98-505, eff. 1-1-14; 98-756, eff. 7-16-14.)

(210 ILCS 45/3-304.2)

Sec. 3-304.2. Designation of distressed facilities.

(a) By May 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) Independent consultant. 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.

(f-5) 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.

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

(h) 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. By February 1, 2011, 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.

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

(Source: P.A. 96-1372, eff. 7-29-10; 97-813, eff. 7-13-12.)

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

Sec. 3-305. 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 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 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) 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.

(7.5) 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), the Department shall assess only one fine, which shall not exceed 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) High risk designation. 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.

(Source: P.A. 98-104, eff. 7-22-13.)

(210 ILCS 45/3-305.5)

Sec. 3-305.5. Violation of the Nurse Practice Act. A facility that fails to submit any required report under Section 80-10 of the Nurse Practice Act is subject to discipline under this Article.

(Source: P.A. 98-990, eff. 8-18-14.)

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

Sec. 3-306. 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.

(Source: P.A. 100-201, eff. 8-18-17.)

(210 ILCS 45/3-307) (from Ch. 111 1/2, par. 4153-307)

Sec. 3-307. 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, he 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.

(Source: P.A. 96-729, eff. 8-25-09.)

(210 ILCS 45/3-308) (from Ch. 111 1/2, par. 4153-308)

Sec. 3-308. 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.

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

(210 ILCS 45/3-308.5)

Sec. 3-308.5. Facilities operated by Department of Veterans' Affairs; penalty offset.

(a) In the case of a veterans home, institution, or other place operated by or under the authority of the Illinois

Department of Veterans' Affairs, the amount of any penalty or fine shall be offset by the cost of the plan of correction, capital improvements, or physical plant repairs. For purposes of this Section only, "offset" means that the amount that the Illinois Department of Veterans' Affairs expends to pay for the cost of a plan of correction shall be deemed by the Illinois Department of Public Health to fully satisfy any monetary penalty or fine imposed by the Department of Public Health. Once a fine or monetary penalty is offset pursuant to this Section, in no case may the Department of Public Health, with respect to the offense for which the fine or penalty was levied, continue to purport to impose a fine or monetary penalty upon the Department of Veterans' Affairs for that violation.

(b) The Director of Public Health shall issue a Declaration to the Director of Veterans' Affairs confirming the citation of each Type "A" violation and request that immediate action be taken to protect the health and safety of the veterans in the facility.

(Source: P.A. 96-703, eff. 8-25-09.)

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

Sec. 3-309. 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. 96-1372, eff. 7-29-10; 97-870, eff. 7-30-12.)

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

Sec. 3-310. 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 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.

(Source: P.A. 99-933, eff. 1-27-17.)

(210 ILCS 45/3-311) (from Ch. 111 1/2, par. 4153-311)

Sec. 3-311. 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.

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

(210 ILCS 45/3-312) (from Ch. 111 1/2, par. 4153-312)

Sec. 3-312. 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.

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

(210 ILCS 45/3-313) (from Ch. 111 1/2, par. 4153-313)

Sec. 3-313. 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.

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

(210 ILCS 45/3-315) (from Ch. 111 1/2, par. 4153-315)

Sec. 3-315. 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.

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

(210 ILCS 45/3-316) (from Ch. 111 1/2, par. 4153-316)

Sec. 3-316. 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.  
(Source: P.A. 83-1530.)

(210 ILCS 45/3-318) (from Ch. 111 1/2, par. 4153-318)  
Sec. 3-318. (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) Wilfully file any false, incomplete or intentionally misleading information required to be filed under this Act, or wilfully fail or refuse to file any required information;

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

(8) Intentionally retaliate or discriminate against any resident for consenting to authorized electronic monitoring under the Authorized Electronic Monitoring in Long-Term Care Facilities Act; or

(9) Prevent the installation or use of an electronic monitoring device by a resident who has provided the facility with notice and consent as required in Section 20 of the Authorized Electronic Monitoring in Long-Term Care Facilities Act.

(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. 99-430, eff. 1-1-16.)

(210 ILCS 45/3-320) (from Ch. 111 1/2, par. 4153-320)

Sec. 3-320. 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.

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

(210 ILCS 45/Art. III Pt. 4 heading)  
PART 4. DISCHARGE AND TRANSFER

(210 ILCS 45/3-401) (from Ch. 111 1/2, par. 4153-401)

Sec. 3-401. 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 non-receipt 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.

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

(210 ILCS 45/3-401.1) (from Ch. 111 1/2, par. 4153-401.1)

Sec. 3-401.1. (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.

(a-5) After the effective date of this amendatory Act of 1997, 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 (formerly the Illinois Department of Public Aid) 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' (formerly the Illinois Department of Public Aid's) 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.

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

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

Sec. 3-402. 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.

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

(210 ILCS 45/3-403) (from Ch. 111 1/2, par. 4153-403)

Sec. 3-403. 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.

(Source: P.A. 81-1349.)

(210 ILCS 45/3-404) (from Ch. 111 1/2, par. 4153-404)

Sec. 3-404. 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.

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

(210 ILCS 45/3-405) (from Ch. 111 1/2, par. 4153-405)

Sec. 3-405. 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, and the resident's representative.

(Source: P.A. 97-820, eff. 7-17-12.)

(210 ILCS 45/3-406) (from Ch. 111 1/2, par. 4153-406)

Sec. 3-406. When the basis for an involuntary transfer or discharge is the result of an action by the Department of Healthcare and Family Services (formerly Department of Public Aid) with respect to a recipient of Title XIX and a hearing request is filed with the Department of Healthcare and Family Services (formerly Department of Public Aid), 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 (formerly Department of Public Aid) or a court of competent jurisdiction and notice of that final decision is received by the resident and the facility.

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

(210 ILCS 45/3-407) (from Ch. 111 1/2, par. 4153-407)

Sec. 3-407. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-408) (from Ch. 111 1/2, par. 4153-408)

Sec. 3-408. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-409) (from Ch. 111 1/2, par. 4153-409)

Sec. 3-409. The facility shall offer the resident counseling services before the transfer or discharge of the resident.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-410) (from Ch. 111 1/2, par. 4153-410)

Sec. 3-410. A resident subject to involuntary transfer or discharge from a facility, the resident's guardian or if the resident is a minor, his 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-411) (from Ch. 111 1/2, par. 4153-411)

Sec. 3-411. 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 (formerly Department of Public Aid) 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.  
(Source: P.A. 95-331, eff. 8-21-07.)

(210 ILCS 45/3-412) (from Ch. 111 1/2, par. 4153-412)

Sec. 3-412. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-413) (from Ch. 111 1/2, par. 4153-413)

Sec. 3-413. 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.

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

(210 ILCS 45/3-414) (from Ch. 111 1/2, par. 4153-414)

Sec. 3-414. 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 Title XIX recipients affected by Section 3-401.

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

(210 ILCS 45/3-415) (from Ch. 111 1/2, par. 4153-415)

Sec. 3-415. 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.

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

(210 ILCS 45/3-416) (from Ch. 111 1/2, par. 4153-416)

Sec. 3-416. 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.

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

(210 ILCS 45/3-417) (from Ch. 111 1/2, par. 4153-417)

Sec. 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.

(Source: P.A. 96-477, eff. 8-14-09.)

(210 ILCS 45/3-418) (from Ch. 111 1/2, par. 4153-418)

Sec. 3-418. 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.

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

(210 ILCS 45/3-419) (from Ch. 111 1/2, par. 4153-419)

Sec. 3-419. 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.

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

(210 ILCS 45/3-420) (from Ch. 111 1/2, par. 4153-420)

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

(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; and

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

(210 ILCS 45/3-421) (from Ch. 111 1/2, par. 4153-421)

Sec. 3-421. 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. With the consent of the resident or his or her representative, the facility must inform the resident's designated case coordination unit, as defined in 89 Ill. Adm. Code 240.260, of the resident's pending discharge and must provide the resident or his or her representative with the case coordination unit's telephone number and other contact information. 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.  
(Source: P.A. 94-767, eff. 5-12-06.)

(210 ILCS 45/3-422) (from Ch. 111 1/2, par. 4153-422)

Sec. 3-422. 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.  
(Source: P.A. 85-1378.)

(210 ILCS 45/3-423) (from Ch. 111 1/2, par. 4153-423)

Sec. 3-423. The administrator of a facility licensed under this Act shall give 60 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

the Office of State Long Term Care Ombudsman, 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. If the Department suspends, revokes, or denies renewal of the facility's license, then notice shall be given no later than the date specified by the Department. Notice shall state the proposed date of closing and the reason for closing. The facility shall submit a closure plan to the Department for approval which shall address the process for the safe and orderly transfer of residents. The approved plan shall be included in the notice. 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. A facility closing in its entirety shall not admit any new residents on or after the date written notice is submitted to the Department under this Section. 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.

(Source: P.A. 98-834, eff. 8-1-14.)

(210 ILCS 45/Art. III Pt. 5 heading)

PART 5. MONITORS AND RECEIVERSHIP

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

Sec. 3-501. 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; or
- (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 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.  
(Source: P.A. 96-1372, eff. 7-29-10.)

(210 ILCS 45/3-502) (from Ch. 111 1/2, par. 4153-502)

Sec. 3-502. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-503) (from Ch. 111 1/2, par. 4153-503)

Sec. 3-503. 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.  
(Source: P.A. 81-223.)

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

Sec. 3-504. 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.

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

(210 ILCS 45/3-505) (from Ch. 111 1/2, par. 4153-505)

Sec. 3-505. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-506) (from Ch. 111 1/2, par. 4153-506)

Sec. 3-506. 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.

(Source: P.A. 81-1349.)

(210 ILCS 45/3-507) (from Ch. 111 1/2, par. 4153-507)

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

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

(210 ILCS 45/3-508) (from Ch. 111 1/2, par. 4153-508)

Sec. 3-508. 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.

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

(210 ILCS 45/3-509) (from Ch. 111 1/2, par. 4153-509)

Sec. 3-509. (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.

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

(210 ILCS 45/3-510) (from Ch. 111 1/2, par. 4153-510)

Sec. 3-510. (a) A receiver may petition the court that he 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.

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

(210 ILCS 45/3-511) (from Ch. 111 1/2, par. 4153-511)

Sec. 3-511. 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 the monitor, or if there are insufficient funds on hand to meet those expenses, the Department may reimburse the receiver or the monitor 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, not allocated for the costs associated with hiring and maintaining of surveyors, have been exhausted.

(Source: P.A. 98-765, eff. 7-16-14.)

(210 ILCS 45/3-512) (from Ch. 111 1/2, par. 4153-512)

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

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

(210 ILCS 45/3-513) (from Ch. 111 1/2, par. 4153-513)

Sec. 3-513. (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.

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

(210 ILCS 45/3-514) (from Ch. 111 1/2, par. 4153-514)

Sec. 3-514. 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.

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

(210 ILCS 45/3-515) (from Ch. 111 1/2, par. 4153-515)  
 Sec. 3-515. 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.

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

(210 ILCS 45/3-516) (from Ch. 111 1/2, par. 4153-516)

Sec. 3-516. (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).  
(Source: P.A. 83-358.)

(210 ILCS 45/3-517) (from Ch. 111 1/2, par. 4153-517)

Sec. 3-517. 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.

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

(210 ILCS 45/3-518)

Sec. 3-518. Fines. Beginning January 15, 2014, and each January 15 thereafter, the Department shall submit to the General Assembly, the Department's Long-Term Care Facility Advisory Board, and the State Ombudsman an accounting of all federal and State fines received by the Department in the preceding fiscal year by the fund in which they have been deposited. For each fund, the report shall show the source of all moneys that are deposited into each fund and the purpose and amount of all expenditures from each fund.

(Source: P.A. 98-85, eff. 7-15-13.)

(210 ILCS 45/Art. III Pt. 6 heading)

#### PART 6. DUTIES

(210 ILCS 45/3-601) (from Ch. 111 1/2, par. 4153-601)

Sec. 3-601. 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.

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

(210 ILCS 45/3-602) (from Ch. 111 1/2, par. 4153-602)

Sec. 3-602. 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.

(Source: P.A. 89-197, eff. 7-21-95.)

(210 ILCS 45/3-603) (from Ch. 111 1/2, par. 4153-603)

Sec. 3-603. A resident may maintain an action under this Act for any other type of relief, including injunctive and

declaratory relief, permitted by law.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-604) (from Ch. 111 1/2, par. 4153-604)

Sec. 3-604. 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.  
(Source: P.A. 82-783.)

(210 ILCS 45/3-605) (from Ch. 111 1/2, par. 4153-605)

Sec. 3-605. 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".  
(Source: P.A. 81-223.)

(210 ILCS 45/3-606) (from Ch. 111 1/2, par. 4153-606)

Sec. 3-606. Any waiver by a resident or his 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-607) (from Ch. 111 1/2, par. 4153-607)

Sec. 3-607. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-608) (from Ch. 111 1/2, par. 4153-608)

Sec. 3-608. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-609) (from Ch. 111 1/2, par. 4153-609)

Sec. 3-609. 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.

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

(210 ILCS 45/3-610) (from Ch. 111 1/2, par. 4153-610)

Sec. 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.

(Source: P.A. 94-26, eff. 1-1-06.)

(210 ILCS 45/3-611) (from Ch. 111 1/2, par. 4153-611)

Sec. 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.

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

(210 ILCS 45/3-612) (from Ch. 111 1/2, par. 4153-612)

Sec. 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.

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

(210 ILCS 45/Art. III Pt. 7 heading)

PART 7. COMPLAINT, HEARING AND APPEAL

(210 ILCS 45/3-701) (from Ch. 111 1/2, par. 4153-701)

Sec. 3-701. 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.

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

(210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

Sec. 3-702. (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, by electronic means, or by personal visit. An oral complaint shall be reduced to writing by the Department. The Department shall make available, through its website and upon request, information regarding the oral and phone intake processes and the list of questions that will be asked of the complainant. 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. The Department must notify complainants that complaints with less information provided are far more difficult to respond to and investigate.

(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 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.

(g-5) The Department shall conduct an annual review and make a report concerning the complaint process that includes the number of complaints received, the breakdown of anonymous and non-anonymous complaints and whether the complaints were substantiated or not, the total number of substantiated complaints, and any other complaint information requested by the Long-Term Care Facility Advisory Board created under

Section 2-204 of this Act or the Illinois Long-Term Care Council created under Section 4.04a of the Illinois Act on the Aging. This report shall be provided to the Long-Term Care Facility Advisory Board and the Illinois Long-Term Care Council. The Long-Term Care Facility Advisory Board and the Illinois Long-Term Care Council shall review the report and suggest any changes deemed necessary to the Department for review and action, including how to investigate and substantiate anonymous complaints.

(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 2012.

(Source: P.A. 98-988, eff. 8-18-14; 99-642, eff. 7-28-16.)

(210 ILCS 45/3-703) (from Ch. 111 1/2, par. 4153-703)

Sec. 3-703. 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.

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

(210 ILCS 45/3-704) (from Ch. 111 1/2, par. 4153-704)

Sec. 3-704. 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.

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

(210 ILCS 45/3-705) (from Ch. 111 1/2, par. 4153-705)

Sec. 3-705. 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.

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

(210 ILCS 45/3-706) (from Ch. 111 1/2, par. 4153-706)

Sec. 3-706. 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.  
(Source: P.A. 81-1349.)

(210 ILCS 45/3-707) (from Ch. 111 1/2, par. 4153-707)

Sec. 3-707. The Director or hearing officer shall make findings of fact in such hearing, and the Director shall render his decision within 30 days after the termination of the hearing, unless additional time not to exceed 90 days is required by him 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-708) (from Ch. 111 1/2, par. 4153-708)

Sec. 3-708. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-709) (from Ch. 111 1/2, par. 4153-709)

Sec. 3-709. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-710) (from Ch. 111 1/2, par. 4153-710)

Sec. 3-710. 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.  
(Source: P.A. 81-223.)

(210 ILCS 45/3-711) (from Ch. 111 1/2, par. 4153-711)

Sec. 3-711. 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.

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

(210 ILCS 45/3-712) (from Ch. 111 1/2, par. 4153-712)

Sec. 3-712. 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.

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

(210 ILCS 45/3-713) (from Ch. 111 1/2, par. 4153-713)

Sec. 3-713. (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.

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

(210 ILCS 45/3-713.5)

Sec. 3-713.5. Informal dispute resolution. Pursuant to the requirements of subsection (c) of Section 3-212 of this Act, when a facility submits comments refuting licensure findings, it shall be considered an informal dispute resolution if the

same findings were not submitted for an informal dispute resolution pursuant to protocols for federal certification deficiencies established by the federal Centers for Medicare and Medicaid Services. The Department shall review documentation submitted as the basis for an informal dispute resolution. If the Department determines that the submitted evidence or arguments were insufficient to refute the findings, then the Department shall provide a written explanation of the reason or reasons why the evidence or arguments were insufficient to refute the finding. If the Department fails to provide a written explanation of the reason or reasons why the evidence or arguments were insufficient to refute the informal dispute resolution findings within 60 days of receipt, the alleged, disputed licensure violation shall be cited, but no penalty shall be imposed.

(Source: P.A. 99-555, eff. 1-1-17.)

(210 ILCS 45/3-714) (from Ch. 111 1/2, par. 4153-714)

Sec. 3-714. 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.

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

(210 ILCS 45/Art. III Pt. 8 heading)

#### PART 8. MISCELLANEOUS PROVISIONS

(210 ILCS 45/3-801) (from Ch. 111 1/2, par. 4153-801)

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

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

(210 ILCS 45/3-801.1) (from Ch. 111 1/2, par. 4153-801.1)

Sec. 3-801.1. Notwithstanding the other provisions of this Act to the contrary, the agency designated by the Governor under Section 1 of "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named", enacted by the 84th General Assembly, shall have access to the records of a person with developmental disabilities who resides in a facility, subject to the limitations of this Act. The agency shall also have access for the purpose of inspection and copying, to the records of a person with developmental disabilities who resides in any such facility if (1) a complaint is received by such agency from or on behalf of the person with a developmental disability, and (2) such person does not have a guardian or the State or the designee of the State is the guardian of such person. The designated agency shall provide written notice to the person with developmental disabilities and the State guardian of the nature of the complaint based upon which the designated agency has gained access to the records. No record or the contents of any record shall be redisclosed by the designated agency unless the person with developmental disabilities and the State guardian are provided 7 days advance written notice, except in

emergency situations, of the designated agency's intent to redisclose such record, during which time the person with developmental disabilities or the State guardian may seek to judicially enjoin the designated agency's redisclosure of such record on the grounds that such redisclosure is contrary to the interests of the person with developmental disabilities. If a person with developmental disabilities resides in such a facility and has a guardian other than the State or the designee of the State, the facility director shall disclose the guardian's name, address, and telephone number to the designated agency at the agency's request.

Upon request, the designated agency shall be entitled to inspect and copy any records or other materials which may further the agency's investigation of problems affecting numbers of persons with developmental disabilities. When required by law any personally identifiable information of persons with a developmental disability shall be removed from the records. However, the designated agency may not inspect or copy any records or other materials when the removal of personally identifiable information imposes an unreasonable burden on the facility.

For the purposes of this Section, "developmental disability" means a severe, chronic disability of a person which -

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

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

(C) is likely to continue indefinitely;

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

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

(Source: P.A. 88-380.)

(210 ILCS 45/3-802) (from Ch. 111 1/2, par. 4153-802)

Sec. 3-802. The provisions of "The Illinois Administrative Procedure Act", approved September 22, 1975, as now or hereafter amended, are hereby expressly adopted and shall apply to all administrative rules and procedures of the Department under this Act.

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

(210 ILCS 45/3-803) (from Ch. 111 1/2, par. 4153-803)

Sec. 3-803. 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.

(Source: P.A. 86-130.)

(210 ILCS 45/3-804) (from Ch. 111 1/2, par. 4153-804)

Sec. 3-804. The Department shall report to the General

Assembly by July 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.

(Source: P.A. 97-135, eff. 7-14-11.)

(210 ILCS 45/3-805) (from Ch. 111 1/2, par. 4153-805)

Sec. 3-805. (a) The Department shall conduct a pilot project to examine, study and contrast the Joint Commission on the Accreditation of Health Care Organizations ("Commission") accreditation review process with the current regulations and licensure surveys process conducted by the Department for long-term care facilities. This pilot project will enable qualified facilities to apply for participation in the project, in which surveys completed by the Commission are accepted by the Department in lieu of inspections required by this Act, as provided in subsection (b) of this Section. It is intended that this pilot project shall commence on January 1, 1990, and shall conclude on December 31, 2000, with a final report to be submitted to the Governor and the General Assembly by June 30, 2001.

(b) (1) In lieu of conducting an inspection for license renewal under this Act, the Department may accept from a facility that is accredited by the Commission under the Commission's long-term care standards the facility's most recent annual accreditation review by the Commission. In addition to such review, the facility shall submit any fee or other license renewal report or information required by law. The Department may accept such review for so long as the Commission maintains an annual inspection or review program. If the Commission does not conduct an on-site annual inspection or review, the Department shall conduct an inspection as otherwise required by this Act. If the Department determines that an annual on-site inspection or review conducted by the Commission does not meet minimum standards set by the Department, the Department shall not accept the Commission's accreditation review and shall conduct an inspection as otherwise required by this Act.

The Department shall establish procedures applicable to the pilot project conducted pursuant to this Section. The procedures shall provide for a review of the Commission's survey findings that may be Type "A" or Type "B" violations under this Act requiring immediate correction, the taking of necessary and appropriate action to determine whether such violations exist, and steps to effect corrective action in cooperation with the Commission, or otherwise under this Act, as may be necessary. The Department shall also establish procedures to require the Commission to immediately report to the Department any survey finding that constitutes a condition or occurrence relating to the operation and maintenance of a facility which presents a substantial probability that death or serious mental or physical harm to a resident will result therefrom, so as to enable the Department to take necessary and appropriate action under this Act.

(2) This subsection (b) does not limit the Department in performing any inspections or other duties authorized by this

Act, or under any contract relating to the medical assistance program administered by the Department of Healthcare and Family Services, or under Title XVIII or Title XIX of the Social Security Act.

(3) No facility shall be required to obtain accreditation from the Commission.

(c) Participation in the pilot project shall be limited to facilities selected at random by the Director, provided that:

(1) facilities shall apply to the Director for selection to participate;

(2) facilities which are currently accredited by the Commission may apply to participate;

(3) any facility not accredited by the Commission at the time of application to participate in the pilot project shall apply for such accreditation;

(4) the number of facilities so selected shall be no greater than 15% of the total number of long-term care facilities licensed under this Act;

(5) the number of facilities so selected shall be divided equally between facilities having fewer than 100 beds and facilities having 100 or more beds;

(6) facilities so selected shall have been licensed for more than 2 years and shall not have been issued a conditional license within 2 years before applying for participation in the pilot project; and

(7) no facilities so selected shall have been issued a notice of a Type "A" violation within one year before applying for participation in the pilot project.

(d) Inspections and surveys conducted by the Commission under the pilot project for initial or continued accreditation shall not be announced in advance to the facility being inspected or surveyed, and shall provide for participation in the inspection or survey process by residents of the facility and the public.

(e) With respect to any facility accredited by the Commission, the Commission shall submit to the Department copies of:

(1) the accreditation award letter;

(2) the accreditation report, including recommendations and comments by the Commission; and

(3) any correspondence directly related to the accreditation.

(f) No facility which is denied initial or continued accreditation by the Commission shall participate in the pilot project.

(g) The Director shall meet at least once every 6 months with the director of the Commission's long-term care facility accreditation program to review, coordinate and modify as necessary the services performed by the Commission under the pilot project. On or before June 30, 1993, the Director shall submit to the Governor and to the General Assembly a report evaluating the pilot project and making any recommendations deemed necessary.

(h) This Section does not limit the Department in performing any inspections or other duties authorized by this Act, or under any contract relating to the medical assistance program administered by the Department of Healthcare and Family Services, or under Title XVIII or Title XIX of the Social Security Act.

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

(210 ILCS 45/3-807)

Sec. 3-807. Review of shelter care licensure standards. On or before March 1, 1994, the Department shall submit to the Governor and the General Assembly a report concerning the necessity of revising the current statutory and regulatory standards of licensure under the category of shelter care. The Department shall conduct a review of those standards for that category, taking into consideration the Department on Aging's report on board and care homes prepared pursuant to Section 4.02a of the Illinois Act on the Aging. The Department's report shall include recommendations for statutory or regulatory changes necessary to address the regulation of facilities providing room, board, and personal care to older persons and persons with disabilities.

(Source: P.A. 99-143, eff. 7-27-15.)

(210 ILCS 45/3-808)

Sec. 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.

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

(210 ILCS 45/3-808.5)

Sec. 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 amendatory Act of the 96th General Assembly, 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. (Source: P.A. 96-1373, eff. 7-29-10.)

(210 ILCS 45/3-809)

Sec. 3-809. Rules to implement changes. In developing rules and regulations to implement changes made by this amendatory Act of the 96th General Assembly, 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. (Source: P.A. 96-1372, eff. 7-29-10.)

(210 ILCS 45/3-810)

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) 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.

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

(210 ILCS 45/Art. IIIA heading)

#### ARTICLE IIIA. PAYMENT

(210 ILCS 45/3A-101)

Sec. 3A-101. Cooperative arrangements. Not later than June 30, 1996, the Department shall enter into one or more cooperative arrangements with the Illinois Department of Public Aid, the Department on Aging, the Office of the State Fire Marshal, and any other appropriate entity for the purpose of developing a single survey for nursing facilities, including but not limited to facilities funded under Title XVIII or Title XIX of the federal Social Security Act, or both, which shall be administered and conducted solely by the Department. The Departments shall test the single survey process on a pilot basis, with both the Departments of Public Aid and Public Health represented on the consolidated survey team. The pilot will sunset June 30, 1997. After June 30, 1997, unless otherwise determined by the Governor, a single survey shall be implemented by the Department of Public Health which would not preclude staff from the Department of Healthcare and Family Services (formerly Department of Public Aid) from going on-site to nursing facilities to perform necessary audits and reviews which shall not replicate the single State agency survey required by this Act. This Article shall not apply to community or intermediate care facilities

for persons with developmental disabilities.  
(Source: P.A. 99-143, eff. 7-27-15.)