



State of Illinois  
Illinois Department of Public Health

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# Long-term Care Annual Report to the Illinois General Assembly

September 2012

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## PART I OVERVIEW

### Nursing Home or Long-term Care Facility

The Nursing Home Care Act defines a facility or a long-term care facility as --

[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 [three] or more persons, not related to the applicant or owner by blood or marriage.... (Section 1-113)

Although "nursing home" is a common and correct phrase to describe these facilities, it may limit thinking. Some residents do not need nursing, or nursing needs are secondary, while others need extensive nursing care. The following are some examples of persons who live in nursing homes:

A 27-year-old man is semi-comatose following an auto accident. He has a tracheostomy and needs a ventilator to breath. He requires complete personal care and highly complex nursing care. He also receives intensive occupational and physical therapy, as well as emotional support and social services to assist him in attaining the highest level of functioning ability.

A 68-year-old woman is disoriented to time and place. She does not need to take medications, but needs prompting to eat or dress. She requires supervision for safety issues, such as reminders to dress warmly during cold weather or not to get lost when leaving the facility.

A 42-year-old man is developmentally disabled and attends a sheltered workshop during the week. He is learning daily life activities to enable him to live in a group home that offers minimum supervision and allows him to function at the highest level he is able to maintain.

An 18-year-old woman has severe physical and mental disabilities. Although she is basically healthy, she needs complete personal care because of physical limitations and delays in cognitive development.

A 97-year-old woman has retained all of her mental faculties, but requires extensive nursing care because of circulatory problems that have resulted from long-standing, uncontrolled diabetes.

The Nursing Home Care Act authorizes the facilities to provide the following different standards of care and allows the Department to promulgate rules, enforce rules and issue adverse licensure findings/fines based on noncompliance with those rules as they relate to the standards of care.

- Skilled Nursing Care Facility (SNF)
- Intermediate Care Facility (ICF)
- Intermediate Care Facility for the Developmentally Disabled (ICFDD)
- Small ICFDD Facility (16 or fewer beds)
- Long-term Care Facility for those Under Age 22 (22 and under)
- Sheltered Care Facility (SC)
- Veterans' Home

For the purpose of this report, the phrase long-term care (LTC) facility is used generally to indicate all levels of care. Specific levels will be identified when an issue is not applicable to all levels.

The words *inspection* and *survey* are used synonymously as are *re-inspection* and *follow-up*. The word *investigation* suggests a more focused approach that evaluates only specific aspects. For instance, a complaint investigation evaluates only the specific allegation(s).

#### Size and Variety of Facilities

LTC facilities range in size from four beds to 787 beds. Some offer only one level of care, while others may provide two or more levels of care. Tables 1 and 2 describe the number of licensed facilities and beds by the level of care provided. Facilities certified, but not licensed, still require inspections and investigations. There are 121 certified-only and hospital-based facilities with more than 6,387 additional beds in Illinois.

**TABLE 1**  
**Number and Type of Licensed and/or Certified LTC Facilities**

<u>Type of Facility</u>	<u>Number of Licensed and/or Certified LTC Facilities</u>		
	<u>2009</u>	<u>2010</u>	<u>2011</u>
SNF Only	452	457	464
SNF/ICF	181	176	169
SNF/ICF/SC	26	23	23
SNF/ICF/ICF-DD	1	1	2
SNF/SC	38	38	37
SNF & SNF/22 and Under	1	1	1
22 and Under Only	10	9	9
ICF Only	64	60	55
ICFDD Only	28	26	32
16 or Fewer Bed Only	262	265	262
ICF/ICFDD	0	0	0
ICF/SC	10	10	10
SC Only	49	48	48
CLF Only	28	28	28
Hospital-based LTC Units	43	42	41
Swing Beds	58	57	57
Supportive Residences	1	1	1
State Mental Health LTC Units	<u>9</u>	<u>9</u>	<u>8</u>
<b>TOTAL FACILITIES</b>	<b>1,261</b>	<b>1,251</b>	<b>1,247</b>

**TABLE 2**

**Number and Type of Licensed and/or Certified LTC Facility Beds**

<u>Type of Facility</u>	<u>Number of Licensed and/or Certified LTC Beds</u>		
	<u>2009</u>	<u>2010</u>	<u>2011</u>
SNF	80,495	80,978	81,308
ICF	22,025	22,716	19,487
ICFDD	10,009	9,846	9,189
22 and Under	995	925	932
CLF	396	396	396
SC	<u>6,773</u>	<u>6,574</u>	<u>6,489</u>
<b>TOTAL BEDS</b>	<b>120,693</b>	<b>119,435</b>	<b>117,801</b>

Department Structure

Within the Illinois Department of Public Health, the Office of Health Care Regulation (OHCR) regulates LTC. Units involved in this regulation are organized as follows:

The **Bureau of Long-term Care (BLTC)** comprises two divisions - the **Division of LTC Field Operations (FO)** and the **Division of LTC Quality Assurance (QA)**.

The **Division of LTC Field Operations** conducts approximately 1,242 surveys per month, including annual licensure surveys and complaint investigations, and special off-cycle surveys, incident report investigations and follow-up surveys pursuant to deficiencies cited during these inspections. In addition, similar surveys are conducted under the authority of Title XVIII (Medicare) and Title XIX (Medicaid) of the federal Social Security Act. These regulatory activities are commonly called certification surveys. The structure, format and time frame of certification activities are mandated and highly regulated by the U.S. Department of Health and Human Services (HHS) through the Centers for Medicare and Medicaid Services (CMS). While state licensure is mandatory under the Nursing Home Care Act, federal certification is a voluntary program. Participation allows a facility to admit and to provide care for clients who are eligible to have that care paid for with Medicaid or Medicare resources. Facilities providing LTC that are located within and operated by a licensed hospital are not required to have an additional state license under the Illinois Nursing Home Care Act. Facilities operated as intermediate care facilities for the developmentally disabled by the Illinois Department of Human Services also are not required to have an additional state license under the Illinois Nursing Home Care Act.

The Division of LTC Field Operations also is responsible for the Inspection of Care (IOC) program, which was transferred from the Illinois Department of Public Aid to the Department of Public Health in 1994. The IOC program is a federally-mandated reimbursement activity in which field reviews are conducted at facilities for the developmentally disabled to determine if Medicaid-reimbursed health care services are being carried out and to gather data necessary to establish Medicaid reimbursement rates for each participating developmentally disabled individuals facility.

Approximately 1,238 facilities in Illinois are regulated under the Illinois Nursing Home Care Act and/or federal certification requirements for Medicare/Medicaid participation. Of this number, 1,238 are licensed under the Nursing Home Care Act, and 106 are associated with a licensed hospital and are operated as a nursing home under the Hospital Licensing Act. A total of 1,132 (91.43%) of the 1,238 facilities participate in the federal certification program for Medicare and/or Medicaid. A central office staff in Springfield and approximately 203 surveyors headquartered in seven regional offices (Bellwood, Champaign, Edwardsville, Marion, Peoria, Rockford and West Chicago) conduct field survey activities for the 1,238 regulated LTC facilities.

The **Division of LTC Quality Assurance** is responsible for processing all surveys conducted by the Division of Field Operations. These activities are performed as prescribed by the Nursing Home Care Act. The structure, format and time frame of certification processing activities also are formalized and regulated by HHS. Staff architects, electrical systems specialists and mechanical/fire protection specialists review initial construction and major remodeling plans to ensure compliance with state licensure rules and the National Fire Protection Association (NFPA) Life Safety Code. Licensure applications for 1,132 facilities are reviewed and processed and Medicare/Medicaid applications are processed by Division of Quality Assurance staff to assure compliance with the Nursing Home Care Act and federal regulations. A total of 37 change of ownership applications and four initial licensure applications were processed and issued a license in 2011.

The **Central Complaint Registry (CCR)** operates a toll-free nationwide hotline (800-252-4343) 24 hours a day as mandated under the Illinois Nursing Home Care Act. The CCR accepts complaints about LTC facilities and other health care facilities. The CCR was established in May 1984, as a result of a legislative mandate to create a central clearinghouse about the quality of care provided to residents of LTC facilities. In 1994, the registry hotline began acceptance of calls for other health care facilities. Now the CCR acts as a repository for concerns or complaints concerning more than 29 different programs monitored by the Illinois Department of Public Health. The CCR receives complaints from a variety of entities: Illinois Department on Aging, Illinois Department of Healthcare and Family Services, Illinois Department of Human Services, Illinois Guardianship and Advocacy, Illinois Department of Financial and Professional Regulation, Office of the Attorney General, Illinois Citizens for Better Care, states attorneys, relatives, patients, staff, friends, visitors and residents themselves. Many persons contacting the CCR do not file a complaint but request information or solutions to problems. These persons often are referred to the Illinois Department on Aging or to a local area sub-state ombudsman. The CCR received more than 14,621 calls in 2011, which generated 3,382 complaints, with 1,395 of those alleging abuse and/or neglect. The CCR is also the central reporting location for the Abused and Neglected Long-term Care Facility Residents Reporting Act. In addition to LTC facilities licensed under the Nursing Home Care Act, mental health centers operated by the Illinois Department of Human Services

are required to report suspected resident abuse and neglect.

The Division of Long-term Care Field Operations is responsible for investigating the complaints filed against LTC facilities and facilities operating as unlicensed nursing homes. The complaints are reviewed and logged and sent to the appropriate region for scheduling and subsequent investigation. Complaints are assigned a time frame of 24 hours, 7 days or 30 days.

**The Training and Technical Direction Unit** coordinates and assists with training the Office of Health Care Regulation (OHCR) staff, other agency staff involved in LTC issues, LTC industry representatives and the general public. OHCR staff is provided education and training for various regulatory programs and survey processes and in preparation for federal testing, if required. Training for OHCR and other agency staff also may be held to meet the requirements of CMS, to introduce new procedures or technical material, or to review commonly used procedures.

Training for the industry representatives and the general public may inform and/or clarify the Department's response to certain situations, or introduce new regulations and/or procedures or technical material; it also provides a forum for exchanging information.

The Training and Technical Direction Unit also administers the nurse aide training program, which is authorized by and operated in accordance with the Nursing Home Care Act and federal certification requirements.

This section is also responsible for review and approval of the resident attendant/paid feeding assistant training programs submitted by skilled and intermediate care facilities and non-facility based entities. In 2011, four new programs were approved and 21 programs were re-approved for a total of 56 active training programs statewide.

Furthermore, this section oversees the waiver process for supervisory staff of licensed skilled and intermediate care facilities providing services to persons with serious mental illness (Subpart S). Seven waivers were processed this year resulting in five approvals and two denials.

The state RAI coordinator continues to respond to questions concerning the Minimum Data Set (MDS) and Resident Assessment Instrument (RAI) survey process for Medicare and/or Medicaid certified facilities especially with the implementation of a new RAI and MDS 3.0.

**Administrative Rules and Procedures** maintains the seven sets of administrative rules written under the authority of the NHCA (see Appendix D.) This division also administers the Health Care Worker Background Check Act and the Health Care Worker Registry.

The Division of Administrative Rules and Procedure is involved in coordinating and maintaining administrative rules for other types of health care facilities and programs regulated by the OHCR, including but not limited to hospitals, home health agencies, and assisted living facilities.

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## **PART II PERFORMANCE OF INSPECTIONS, SURVEYS AND EVALUATION DUTIES UNDER THE ACT**

### Inspections and Surveys

The Division of LTC Field Operations conducts state licensure and federal certification surveys and investigations. Because of the similarity of state licensure and federal certification regulations and the mandated, structured certification survey procedures, licensure and certification activities historically have been conducted concurrently in accordance with the federal survey procedures. Both licensure and certification requirements are applied to the deficiencies cited during these combined surveys. The only exceptions to this federal certification-driven survey process are surveys conducted at facilities not participating in the federal Medicare/Medicaid programs, distinct licensure activities (probationary licensure and initial licensure surveys) or the relatively few instances in which state requirements are stricter than the federal regulations.

### LTC/Field Operations Staffing

As of December 31, 2011, the Division of LTC Field Operations had 250 staff dedicated to licensure and certification survey activities and nine staff assigned to quality review.

### State Survey Performance Standards

As the designated state survey agency (SSA) for conducting federal certification surveys, the LTC program must comply with all federal survey procedures. CMS conducts an extensive auditing for each SSA's performance in conducting the federal survey process. The state survey performance review involves the measurement of state performance standards as follows:

Frequency 1. No less than 10 percent of standard surveys begin during weekend or "off hours."

Frequency 2. Standard health surveys are conducted within prescribed time limits.

(All standard health surveys are reviewed to assure that annual surveys are conducted with a statewide average interval of 12 months or less and conducted no later than 15.9 months

Frequency 3.1 Tier 1 recertification/validation surveys for non-deemed home health agencies (HHA) and intermediate care facilities for the mentally retarded (ICF/MR) and validation surveys for deemed hospitals are conducted within the time frames established by law.

Frequency 3.2 Tier 2 recertification surveys for non-deemed hospices, non-deemed ambulatory surgical centers (ASC), non-deemed hospitals (including non-deemed critical access hospitals- [CAHs]), outpatient physical therapy (OPT), comprehensive outpatient rehabilitation facilities (CORF), rural health clinics (RHC) and end stage renal disease (ESRD) facilities are conducted within the time frames established by law.

Frequency 3.3 Tier 3 recertification/validation surveys for non-deemed hospices, non-deemed ASCs, non-deemed hospitals (including non-deemed CAHs), OPTs, CORFs, RHCs and ESRD facilities are conducted within the time frames established by law.

Frequency 4. Data entry for non-deemed hospitals (including non-deemed CAHs) and nursing homes are entered into the federal database systems on a timely basis.

Quality 1. Documentation of deficiencies for nursing homes, ESRD facilities, ICFs/MR and non-deemed HHAs and hospitals are in accordance with the Principles of Documentation and Appendix P and PP of the State Operation Manual (SOM).

Quality 2. Survey teams conduct nursing home surveys in accordance with federal standards, as measured by FOSS surveys.

Quality 3. Determination of non-compliance for nursing home health FOSS surveys are in accordance with federal standards and are documented at the appropriate severity level.

Quality 4. Accuracy of identification of deficiencies and citing at the appropriate severity level during nursing home comparative surveys. [This is a developmental measure for the Life Safety Code (LSC)].

(Federal surveyors conduct onsite audits of state survey teams to determine whether their activities are in accordance with mandated federal procedures.)

Quality 6. CMS guidelines for the prioritization of all federal complaints, regardless of whether an onsite survey is conducted, and those incidents requiring an onsite survey are followed for nursing homes, non-deemed hospitals, non-deemed CAHs, non-deemed HHA and ESRD facilities.

Quality 7. All complaints triaged as immediate jeopardy and requiring an onsite survey are investigated within the prescribed time limits for nursing homes, ESRD facilities, non-deemed HHAs, non-deemed ASCs, non-deemed hospitals and CAHs, excluding Emergency Medical Treatment and Active Labor Act (EMTALAs).

Quality 8. All complaints and incidents for EMTALA investigations are conducted according to CMS policy.

Quality 9. All nursing home complaints and incident reports are investigated according to CMS policy for complaint/incident handling.

Enforcement and Remedy 1. Immediate jeopardy cases are processed timely. This excludes Medicaid-only providers/suppliers and EMTALA.

Enforcement and Remedy 2. Enforcement processing time frames for notification of mandatory denial of payment for new admissions in a nursing home are followed.

Enforcement and Remedy 3. Termination cases for non-nursing home providers/suppliers, except for cases involving deemed providers/suppliers and Medicaid-only providers/suppliers, are processed timely.

Enforcement and Remedy 4. Conduct timely the specified number of special focus surveys of nursing homes.

### Implementation of Federal Certification Enforcement Regulations

The federal CMS regulations impose intermediate sanctions for noncompliance with federal certification requirements. Before these regulations were adopted in 1995, the only enforcement remedy applied to certified facilities was decertification, which was pursued only in cases where facilities were found to be in substantial noncompliance with a significant portion of the certification regulations over an extended period of time. The enforcement regulations establish penalties for noncompliance with a single regulation. These penalties include imposed plans of correction, directed in-service trainings, denial of payment for new admissions, state monitoring and civil money penalties ranging from \$50 per day to \$10,000 per day. In 1999, the CMS added that a civil money penalty could be applied per instance or per deficiency instead of only the per day amounts. The per instance civil money penalty ranges from \$1,000 to \$10,000 per deficiency, but the total amount per survey cannot exceed \$10,000. Sanctions are applied immediately at facilities with poor compliance histories, and for all other facilities if deficiencies are found uncorrected during a revisit or new deficiencies are cited.

### Nurse Aide Training and Competency

Nursing assistants/aides working in licensed skilled nursing facilities, intermediate care facilities and home health agencies must complete required training in order to be employed as a Certified nursing assistant. Training is achieved primarily by successfully completing an Illinois Department of Public Health-approved basic nursing assistant training program.

All basic nursing assistant training programs are approved by staff of the Training and Technical Direction Unit, which is part of LTC Field Operations. Rules governing basic nursing assistant training programs in Illinois are found in the 77 IL Administrative Code, Part 395. These training programs are sponsored by various entities including community colleges, long-term care facilities, home health agencies, hospitals, private business, vocational schools and high schools. Nurse aide training programs consist of theory instruction, demonstration of manual skills used in providing patient care and passing a written competency examination.

Forty-four new basic nursing assistant training programs were approved in 2011, bringing the total number of active programs to 308.

The following illustrates a breakdown of sponsors for current programs:

Community Colleges 98  
Vocational Schools 103  
High Schools 72  
Nursing Homes 20

Hospitals 2  
Private Business 6  
Home Health Agencies 7

All instructors and evaluators teaching in training programs must be approved by the Department prior to instructing students. In 2011, the Department approved 988 instructors and 247 evaluators. Nurse aide training programs are monitored and evaluated by Department staff to ensure compliance with stated program plans, with 25 programs being monitored in 2011.

As stated in the 2010 report, revisions to the IL Administrative Code, Part 395 and the model program curriculum are complete. Both documents continue through the legislative review process.

In response to Illinois Statue ILCS 2310/2310-225 and 227 and based upon results of the Illinois Certified Nurse Assistant Incentive Program Survey, the review process of draft rules and curriculum for the Advanced Nurse Aide Training program, CNA II, remains delayed, pending the final implementation of Illinois Administrative Code, Part 395.

Allegations of Certified Nurse Aide/Developmental Disabilities Aide/Child Care-Habilitation Aide Abuse, Neglect or Misappropriation of Resident Property

The Nursing Home Care Act and the Abused and Neglected Long-Term Care Facility Residents Reporting Act require that allegations of suspected abuse, neglect or misappropriation of a resident's property by certified nurse aides, developmental disabilities aides and certified child care-habilitation aides (hereafter referred to collectively as aides) be reported to the Department. The Department receives allegations of abuse, neglect or misappropriation of property committed by aides through complaints, incident reports and letters. Documentation from a facility's own complaint investigation is reviewed by the Department to determine whether there is substantial evidence to process an allegation against the aide. If so, the aide is notified by certified letter of the allegation and his or her right to a hearing. If, after a hearing, the Department finds that the aide abused or neglected a resident or misappropriated resident property in a facility, or if the aide does not request a hearing within 30 days, the finding of abuse, neglect or misappropriation is placed next to the aide's name on the registry. Prospective employers who call the registry to determine an aide's status are informed of the finding. The practical effect is that the aide will not be able to find employment with a LTC facility.

While it cannot be determined whether facilities report all allegations of abuse, neglect or misappropriation of property by aides, in general, information received or requested from facilities is complete. Most facilities have been cooperative in providing the necessary information on such cases, or additional information when requested. Table 3 lists the number and type of findings for 2009, 2010 and 2011.

**TABLE 3**  
**Aide Abuse, Neglect and Misappropriation of**  
**Resident Property Findings**  
**2009, 2010 and 2011**

<u>Allegation Type</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Abuse (Total)	107	149	83
Neglect	13	36	18
Misappropriation of Property	26	23	15
CNA/Hab Aide Cases			
Referred to Department			
Division of Legal Services	209	209	118
Cases Closed	78	167	60
Cases Processed	39	30	56

Illinois Department of Human Services – Office of Inspector General

The Abused and Neglected Long-term Care Facility Residents Reporting Act was amended to require the Illinois Department of Human Services, Office of the Inspector General (DHS OIG), to report substantiated findings of physical and sexual abuse and egregious neglect to the Department for posting on the Health Care Worker Registry.

**TABLE 4**  
**Surveys/Investigations/Inspection of Care**  
**2009, 2010 and 2011**

<u>Type</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Annual Licensure/Certification	5,939	5,744	6,118
Surveys/Follow-up Surveys			
Licensure/Certification Complaint	7,746	5,990	5,448
Investigations/Follow-up Investigations			
Medicaid IOC Reviews (DD Only)	304	305	306
Licensure Probationary/Initial Surveys	67	66	63
Certification Initials	4	2	2
Incident Report Investigations	531	598	469
Special Surveys – Licensure/Bed Certification (Off-cycle, After Hours)	170	392	348
<b>TOTAL</b>	<b>14,761</b>	<b>13,097</b>	<b>12,754</b>

Federal Survey Initiatives

CMS continues with the same goals for the improvement of quality in skilled nursing facilities for 2011. The two goals are to reduce the rate of pressure ulcers and to reduce the usage of physical restraints in long-term care. The pressure ulcer and physical restraint rates showed a decrease during the first and second quarters of 2011. Illinois remains slightly above the national average for pressure ulcer rates and restraint use.

The Quality Improvement Organization (QIO) for Illinois offered several trainings in 2011 that Departmental staff and providers were able to access. The trainings offered were:

April 2011	Seminar x2	Pressure Ulcers Above and Beyond
May 2011	Seminar x2	Prevention of Falls and Injuries Related to Falls

Per contract with CMS, the QIO acts as facilitators, with 82 nursing homes, for reduction of the number of pressure ulcers and/or physical restraints. The QIO also continues to promote the Advancing Excellence Campaign, which is designed to improve quality of care in nursing homes.

The Illinois Department of Public Health continues to work with the QIO to identify facilities that may need additional information and training opportunities.

The QIO and other state agencies continue to work with the Pressure Ulcer Coalition. The coalition continues to seek nursing homes to pilot the use of the tool developed that communicates resident risk levels for pressure ulcers as that person transitions from one health setting to another. The QIO presented this information to the Trade Associations with nursing home staff in attendance.

Illinois L.A.N.E. a collaboration of CMS, the state Department of Public Health, state ombudsmen and three provider associations, meet monthly to evaluate the plans of action implemented to achieve targeted outcomes for pressure ulcer problems. The initial pilot began in September 2010 and concluded in October 2011. An additional pilot is scheduled to begin in May 2012.

CMS continues its "Special Focus Facilities" program, which requires more frequent surveys of facilities with a history of serious quality issues. During this reporting period, Illinois has seven facilities included in this program.

Regional office surveyors from federal CMS continue to perform Federal Oversight and Support Surveys, FMS/Comparative Surveys and Life Safety Code Federal Monitoring Surveys.

During 2011, there were no major changes to the State Operations Manual, specifically in Appendix P or Appendix PP.

Initiatives Supported by Federal Civil Money Penalty Funds

During 2011, there were no initiatives supported by federal civil money penalty funds.

### Continued Focus on Abuse, Neglect and Theft in Nursing Homes

During 2011, staff of the Division of LTC Field Operations continued to focus on the prevention, detection and investigation of abuse, neglect and theft in Illinois LTC facilities. With the Special Investigations Unit in place within the Division of LTC Field Operations, the Department was able to put even more emphasis on detection and prevention of abuse and neglect. The unit employs a special investigator who has a law enforcement background with the Illinois State Police.

The Division of LTC Field Operations renewed its agreement with the Illinois State Police Medicaid Fraud Control Unit (ISP/MFCU) in 2011 to provide greater involvement of ISP/MFCU investigators in the Department LTC investigations; cross-training of department and ISP/MFCU investigators; and the assignment of a registered nurse to the ISP/MFCU Task Force. The assistance and guidance of the ISP/MFCU has helped the Department increase the number of cases staff are able to investigate, and the additional experience has proven invaluable to staff. The agencies also developed a system to improve communications between ISP agents and Department field supervisors.

In 2011, 752 incidents and complaints of abuse/neglect, theft and/or fraud were referred to ISP/MFCU, which reviews the reports to determine which referrals to investigate for possible criminal action. Of those, 288 packets were provided to ISP/MFCU at their request for further review. In 2011, the ISP/MFCU had a total of seven convictions of LTC abuse, neglect or theft cases. The ISP/MFCU opened 733 cases for patient abuse, 19 cases for theft, fraud, drug diversion or financial exploitation. Also, 119 immediate jeopardies were referred to ISP/MFCU. The process was recognized in 2001 as a best practice in the area of Quality Improvements in the Regulatory Process at the 31<sup>st</sup> Annual Association of Health Facilities Survey Agencies meeting. Also that same year, the federal Government Accounting Office audit report noted that, compared to other states, Illinois has a very positive, aggressive and productive working relationship with the ISP/MFCU. Illinois continues to be a leader in this field.

The year 2011 saw growth in the relationship between the Department and local law enforcement, state's attorneys, the FBI and coroners. The BLTC adopted a new licensing rule in July 2002 requiring facilities to immediately contact local law enforcement authorities when a resident is the victim of abuse involving physical injury or sexual abuse. A copy of the new rule was sent to all local enforcement authorities, state's attorneys and coroners/medical examiners to ensure that they were aware of the requirement. Department staff attended association meetings, conferences and informational one-on-one meetings to respond to issues and concerns expressed by these officials in regard to preventing abuse and neglect in LTC facilities. This effort continues, and the results have been twofold. The lines of communication have greatly expanded, allowing the Department's focus to be strengthened, and numerous investigations in conjunction with local law enforcement have been conducted. Many one-on-one meetings with local law enforcement have resulted in these entities building relationships with LTC regional staff and allowing direct communication to discuss and share concerns related to incidents and issues of LTC facilities in their jurisdictions.

The expanded interaction with law enforcement officials and local prosecutors has resulted in the following benefits:

- Increased awareness of the problem of abuse, neglect and theft in nursing homes. Department staff, along with ISP/MFCU staff, have conducted numerous seminars and in-services for LTC providers and the public on abuse, neglect and theft in LTC facilities. Staff from the Division of LTC participates on the U.S. Attorney's Central Illinois Health Care Task Force and a staff member serves on the Tri-County Elder Fatality Review Team and on the DuPage County Elder Fatality Review Team.
- The LTC, Special Investigations Unit has a representative on the Illinois State TRIAD Board to improve communications between seniors and law enforcement.
- Better understanding and involvement among law enforcement agencies statewide. Local law enforcement officials are becoming aware of the regulatory requirements of LTC facilities and becoming more comfortable interacting with providers. Some agencies make a routine of "walking a beat" in facilities.
- Improved efficiency in the pursuit of criminal and administrative remedies against identified abusers and against nursing homes that are inadequately protecting their residents from abuse, neglect and theft.

The goal of the Division of LTC Field Operations is a reduction in the incidence of nursing home resident abuse, neglect and theft and, when necessary, prompt and accurate reporting. LTC facilities must be alert to preventing abuse, neglect and theft. Being able to screen prospective employees and residents thoroughly to identify risk factors; to train staff, residents and families; and to investigate reports are all keys to attaining this reduction in incidence and to providing a safer environment for the residents.

#### Abuse Prevention Review Team Act

Public Act 091-0931 provides for designated review teams appointed to review confirmed cases of sexual assault of a nursing home resident and unnecessary deaths of nursing home residents. The goal of the act is to gain a better understanding of the incidence and causes of sexual assaults against nursing home residents and unnecessary deaths of nursing home residents.

The Division of LTC Field Operations is responsible for ensuring that cases meeting the criteria developed in the act are referred to the designated team for review. The team will report their findings to the director and to appropriate agencies, making recommendations in an effort to help reduce the number of sexual assaults on and unnecessary deaths of nursing home residents.

In 2007, the Department started hiring staff and formulating the Division of Special Investigations staff that will be responsible for implementing and overseeing the review of identified cases. A review team made up of professionals from multiple disciplines and agencies is being established. Procedures for tracking confirmed sexual assaults, and unnecessary deaths, obtaining death certificates and devising a database of LTC as outlined in the statute is being established. Secure databases have been established to track the following required by the act:

- 1) Residents who are victims of sexual assaults and LTC residents known to have died at a facility;
- 2) Residents named in Quality of Care deficiencies, who then are found to have died within six months;
- 3) Residents whose care was the subject of a complaint or incident investigation by the Department involving death/sexual assault.

From January 1, 2011 through December 31, 2011:

The Department's team logged and reviewed 636 reports of sexual abuse and/or deaths in LTC facilities. Of those 636, 104 were referred to the designated team for review.

A second team (Northern Abuse Prevention Review Team) met in May 2011 to review deaths/sexual assault cases. This team reviews deaths and sexual abuse that occur in LTC facilities in Illinois in the geographic area north of I-80.

Each team is mandated to meet quarterly.

The Illinois Department of Financial and Professional Regulation has one member that is currently serving on the northern team.

Based on recommendations and suggestions from the teams, the Department director recommended:

1. A rule be drafted regarding limitation on the distance a window is operable to help prevent elopements and suicide attempts for presentation and consideration by the LTC Advisory Board at the July 1, 2012 meeting.
2. A rule be drafted requiring all direct care workers to complete and maintain a current CPR certification. This still needs to be presented to the LTC Advisory Board.

#### Identified Offender Project

P.A. 094-0163 requires facilities to check the Illinois State Police and Department of Corrections sex offender websites on all new admissions. A criminal history check is required on all new and existing residents. If the results of the background check are inconclusive, the facility is required to initiate a fingerprint-based check. In the event a resident's health or lack of potential risk, the facility may apply to the Special Investigations Unit for a waiver for the fingerprint background check. The resident is granted a waiver if the resident is completely immobile as verified by a signed physician explanation, has the existence of severe, debilitating physical condition that nullifies any potential risk. This waiver is valid only while the resident is immobile and the criterion supporting the waiver exists.

P.A. 094-0752 includes permanent rules now being followed by the Department requiring a criminal history analysis and report be conducted by the Department but outside the Office of Health Care Regulation. The OHCR is responsible for ensuring proper tracking and monitoring

of identified offenders is done in LTC facilities. All annual surveys include these extra duties along with complaint and incident investigations including checking the Identified Offender list. The criminal history analysis is to assist the facility in preparing supervision needs for all residents. All convicted or registered sex offenders must reside in a private room.

The Special Investigations Unit worked with multiple agencies in Operation Guardian, an investigation led by the Attorney General's Office, which focused on nursing home compliance, specifically with the identified offender regulations. During 2011, nine operations statewide were carried out.

Review of Construction/Renovation/Addition Plans

In 2011, 108 projects that resulted in additional beds, new facilities, upgrading of beds or other construction/renovation were approved, a decrease from 141 in 2010. Four new facilities were licensed in 2011 for an additional 287 beds. Many of the projects required multiple on-site visits prior to initial acceptance of the buildings. Table 5 shows the number of projects approved during each month of 2011.

**TABLE 5**  
**Construction/Renovation/Additions\*, and Upgrades Approved**  
**by Project Review Unit in 2011**

<u>Month</u>	<u>Number of Projects Approved</u>
January	15
February	9
March	6
April	15
May	7
June	14
July	6
August	10
September	7
October	3
November	11
December	<u>5</u>
<b>Total</b>	<b>108</b>

\* Resulted in additional beds, new facilities or required review of plans and documentation.

Health Facility Plan Review Fund

Public Act 90-0327 (effective August 8, 1997) (see the Nursing Home Care Act [210 ILCS 5/3-202.51]) established the Health Facility Plan Review Fund and allowed the Department to charge a fee for the review of architectural drawings and specifications for construction of new hospitals, LTC facilities and ambulatory surgical treatment centers, and for alterations or additions to existing facilities that involved major construction or had an estimated cost greater than \$5,000. The Nursing Home Care Act was later amended to require a fee for major construction projects with an estimated cost greater than \$100,000. The difference between fees

paid for reviews and the estimated amount required to support the process comes from the general revenue fund.

The Nursing Home Care Act requires acceptably submitted drawings to be reviewed within 60 calendar days after receipt and requires item-by-item replies to drawing review comments to be reviewed within 45 calendar days after receipt. From January 1, 2011 to December 31, 2011, 122 plan review projects were completed. These projects involved architectural, electrical, mechanical, and automatic sprinkler system reviews, included on-site surveys, and most involved multiple staff. More than half of the projects submitted during calendar year 2011 were not subject to a fee. More than \$328,000 in fees were paid for reviews in calendar year 2011.

During 2011, the Long-term Care Plan Review Unit also performed required physical plant evaluations whenever a licensed LTC requested to increase its licensed bed capacity or to upgrade beds to a higher level of nursing care. In the past year, this unit also has performed a physical plant evaluation whenever a licensed health care facility has requested to provide an outpatient physical therapy unit. Architectural surveyors also have performed follow-up surveys and annual certification surveys for the LTC Field Operations Unit.

#### Long-term Care Surveyor Training

Two State Basic Surveyor Orientation Programs (SBSOP), which consisted of three weeks of training each, were held in 2011. Forty-five new surveyors were provided an overview of the federal and state requirements for nursing facilities to assist them in surveying for compliance and in successfully passing the SMQT. Topics covered were: State Operations Manual- Appendices P, PP, Q, Chapters 5 and Survey Tasks 1-7; Pressure Ulcers; Adequate Supervision; Restraints; Immediate Jeopardy, Abuse and Neglect; Basic and Advanced Principles of Documentation; Hands On Practical Application of Principles of Documentation; Principles of Investigation; Deficiency Determination Based on Evidence; FOSS and FMS Surveys; SMQT; Infection Control; Pharmacy Tags and Medication Pass; Environmental and Nutritional Requirements; Enforcement; MDS/RAI; Food Service Sanitation; Administrative Hearing Process; Culture Change; The Role of the Surveyor and Survey History; ASPEN and ACTS Use; Healthcare Worker Registry, Background Checks; Findings of Abuse, Neglect and Misappropriation of Funds; Nurse Aide Training; Legal Issues; Subpart S and Subpart U.

The forty-five new surveyors successfully completed the SBSOP and Federal Basic Orientation. All forty-five individuals passed the SMQT and became qualified to survey LTC facilities.

The SBSOP program is continuously upgraded to meet the needs of newly employed staff and changing standards and practices in the survey process and in state and federal programs. The goals of the programs are to teach surveyors to evaluate facility compliance with regulatory requirements and to promote the quality of care received by residents in the LTC setting.

In addition to training new employees, the Division of LTC Field Operations provided training sessions during the quarterly supervisor's meetings attended by central and regional office management staff. The supervisors then shared the materials with their survey and review staff.

During 2011, the following training program topics were presented during the LTC supervisor's meetings: Division Updates; Principles of Documentation; FOSS surveys and Required Corrective Action Plans; Medication Administration; Abuse Protocol; IL Power of Attorney Act;

Care2Learn Training for RN's; Incident Reports and Tracking; Mist Therapy; Job Duties; Comparative Surveys-Patterns and Trends; Surveyor Time Management; Hospice Services; QIO Update and Scope of Work; S&C Notice of Reporting Alleged Criminal Activity in a LTC Facility; Pressure Ulcer Treatment/Staging; Determining Scope and Severity; State Performance Standards; Infection Control including Tuberculosis Surveillance in LTC; QI Performance Measures and Action Plan; SMI Residents in LTC; Respiratory Services; Legal Issues, including Hearings and Ex Parte Communication and Q4 Performance Measure and Action Plan.

CMS continues to provide satellite broadcasts and web-based training for all surveyor disciplines in the Office of Health Care Regulation.

Information regarding federal surveyor training and education continues to be maintained in the centralized database called the Total Learning Management System.

The Division of LTC Field Operations also provided continuing education opportunities for all staff of all disciplines through various outside training programs. Central and regional office staff attended the following: Illinois Pioneer Coalition Annual Summit; ADA Annual Conference, Alzheimer's Association seminars, Illinois Environmental Health Association Annual Conference and Annual CNA Instructor Conference.

As survey processes, procedures and electronic submission of survey information continue to evolve in the Division of LTC Field Operations, the need for training and education of survey staff and providers will continue. The Division's goal is to improve the education programs offered to staff so that they can effectively evaluate the care and services provided to residents in long-term care facilities.

Likewise, provider education continues to be a need that must be addressed by the Department. Providers must recognize regulatory expectations and implement systems to provide necessary care and services as required.

Summary of Fire Situations

The Department received 10 life safety incident reports from LTC facilities in 2011. During this reporting period, one resident death occurred, and it was related to a smoking incident. One resident sustained a fall during evacuation related to a mechanical fire.

Information gathered has been prepared in a format similar to that used in previous years. The three categories used for graphic purposes are reported causes of fire, methods of detection and extinguishment methods used.

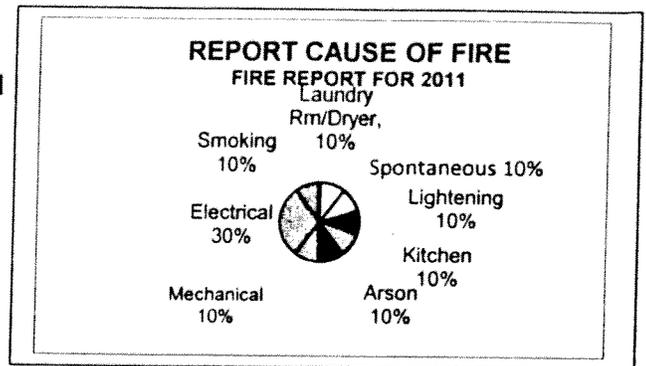


Figure 1

The major cause of fire was electrical (three of 10 incidents). The arson incidents decreased from four the previous year to one in 2011. A resident was identified as being the perpetrator of the arson. This supports the importance of : (a) assessment and subsequent planning of care; (b) resident supervision; (c) maintenance of smoke and fire detection systems; (d) maintenance of fire extinguishment systems; (e) fire drills as part of staff education to ensure familiarity with procedures to be followed in emergency situations; and (f) facility smoking policies. (Figure 1).

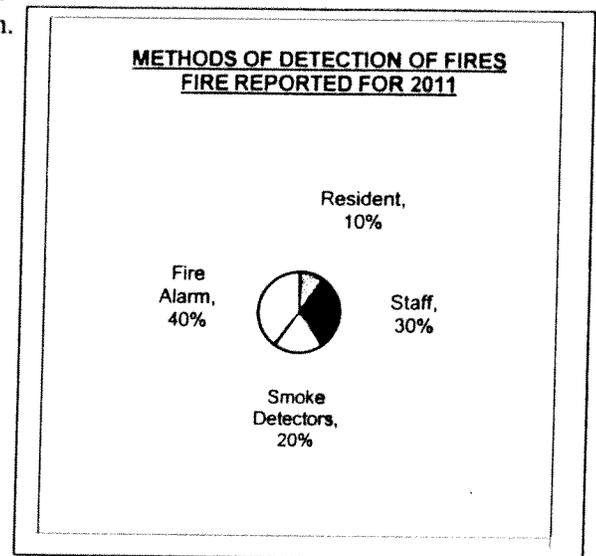


Figure 2

Electrical-related incidents were deemed to involve primarily lighting, heating, and electrical outlets. Kitchen-related incidents occurred during food preparation. These causes support the need for staff education and preventive maintenance programs for cooking, laundry, heating, ventilation and electrical equipment/systems.

Facility staff detected 30 percent of the incidents (three of 10). This illustrates the importance of staff education to include properly maintaining fire drills under varying conditions. The second most successful means of detection was the fire alarm system (four of 10). This demonstrates the importance of properly maintaining and testing all components of the fire alarm system.

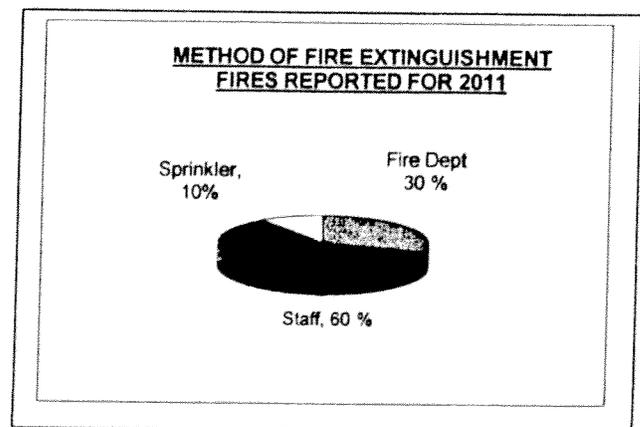


Figure 3

Staff continued to be an important part of fire extinguishment. Staff members were credited with extinguishing six fires. Fire departments were credited with extinguishing three fires, while one was extinguished by a sprinkler system (Figure 3).

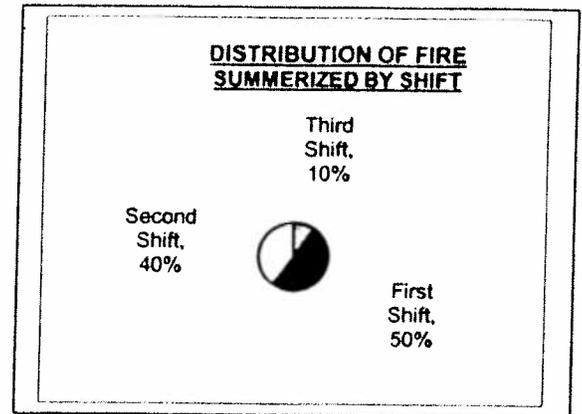
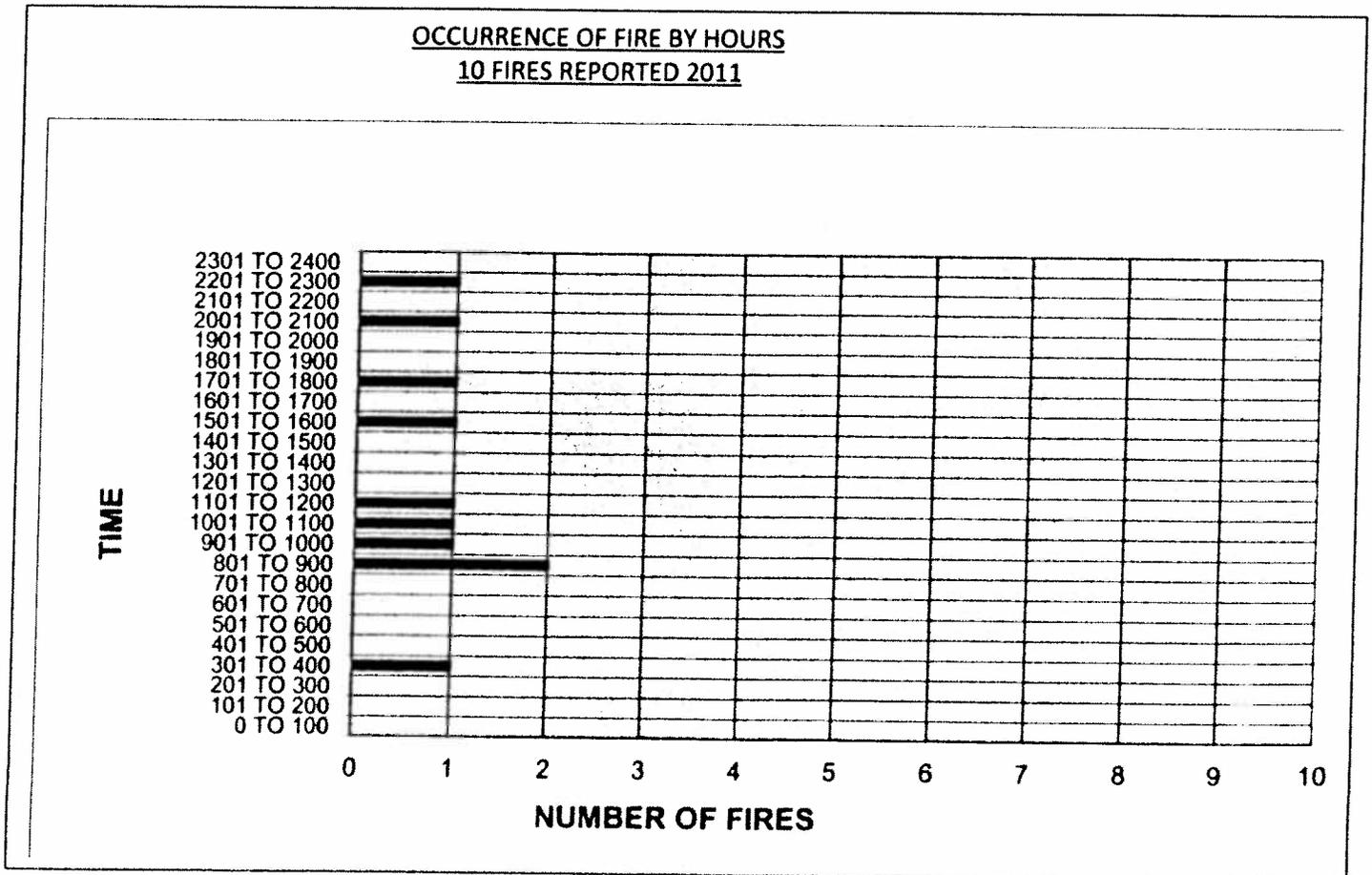


Figure 4

The information obtained allows other statistics relating to fire incidents to be evaluated. An often-asked question is related to distribution of fires by shift times. For report purposes, shifts are presumed to be 7 a. m. to 3 p. m. (first shift), 3 p. m. to 11 p. m. (second shift) and 11 p. m. to 7 a. m. (third shift). Half of the incidents (5 of 10) occurred during first shift. The distribution of fires among these shifts is shown in Figure 4. The second highest number occurred during 2<sup>nd</sup> shift when four incidents occurred. The specific hourly periods of occurrence are shown in Figure 5.



## Intellectual Disabilities Section

As of July 1, 2010, the BLTC Intellectual Disabilities is under the Community Care Act and is no longer a part of the Nursing Home Care Act. At this time the Intellectual Disabilities Advisory Board is in formation and will develop the regulatory language that will replace the currently used Illinois Administrative Codes 350. and 390. licensure regulations. The Community Care Act will not impact the 370. Code for CLFs as they have their own statute.

During 2011, the ID Section continued to provide certification and licensure surveys for ICF/ID which are 16 beds or less, 16 beds or more, state operated facilities, skilled pediatric facilities and CLFs for persons with DD disabilities (not to be confused with CILAs). This Section of the BLTC conducts Complaint Investigations, Incident Investigations, follow-up surveys, inspection of care surveys and special certification surveys when necessary.

The ID section continues to investigate multiple incidents of abuse and/or neglect in the area of client protections. Allegations of abuse, included sexual, physical and verbal abuse. Neglect defined as: failures to provide goods and services to meet the needs of the persons served. Neglect deficiencies have increased due to the lack of providing necessary healthcare. As this population continues to age, their increased medical needs may impact their lives as much as, or more than the need for active treatment. Client-to-client aggression without sufficient safeguards is an issue resulting in increased deficiencies and/or conditions of participation.

Deficient practices in state-operated facilities continue to be an area of concern in the ID section. State operated facilities again had multiple surveys that included condition-level deficiencies and immediate jeopardy citations. Incident reports are reviewed closely for areas of concern with survey teams sent out to complete incident investigations when deemed necessary.

Training during 2011 is completed on an ongoing basis with supervisor follow-up in the interim. There were three, full staff meetings in the year 2011. Training focus was on clarification of regulations and survey procedures for added consistency. Increased oversight, direction and feedback of report writing for compliance with federal standards were provided to the surveyors during 2011. Accountability for the surveyor's work has been stressed and follow-up by the supervisor has taken place, including additional training.

Objectives for the coming year have been developed to include continued supervisor oversight and direction. Surveyors will continue to receive feedback for the work they produce. Focus training will be provided on Principles of Documentation with individual follow-up to ensure implementation. Consistency between the regions will be monitored in regards to facility compliance with the regulations. Provider training will be focused on abuse and neglect investigations as well as client to client abuse. Increased communication with other state agencies providing ID services and provider organizations continues to be an objective for the coming year in an effort to increase consistency and provision of care. Due to the transitioning of many clients from ICF/ID services and the downsizing and closing of two state operated facilities, it is imperative that the ICF/ID section monitor the transitioning of these clients into alternative placement ensuring their medical and safety needs can be met.

### Two-year Licenses

The Nursing Home Care Act allows the Department to issue two-year licenses to qualifying facilities. To qualify, a facility cannot have had within the last 24 months:

- a Type "A" violation;
- a Type "B" violation;
- an inspection that resulted in 10 or more administrative warnings;
- an inspection that resulted in an order to reimburse a resident for a violation of Article II (Section 3-305) of the act;
- an inspection that resulted in an administrative warning issued for a violation of improper discharge or transfer (relating to Section 3-401 through 3-413); or
- sanctions or decertification for violations in relation to patient care in a facility under Titles XVIII and XIX of the federal Social Security Act.

During 2011, the Department issued 810 renewal licenses. The two-year license program is cyclical. Statistics show that the number of two-year licenses issued by the Department is higher in odd-numbered years. Facilities continuing to qualify for the two-year license program maintain this schedule. However, as new facilities are licensed or as facilities change ownership or become disqualified from participation in the two-year program, the number of one-year licenses increases. Since the Department uses the certification survey for licensing and the certification program requires facilities to be surveyed approximately once per year, the certification survey sanctions affect the length of a facility's license. Each facility's certification survey results must be reviewed annually in addition to a review for licensure program sanctions to determine whether the facility meets the two-year license criteria.

**TABLE 6**  
**2011 License Renewal Information**

<u>Month</u>	<u>1 Year</u>	<u>2 Year</u>	<u>TOTAL</u>
January	19	49	68
February	20	44	64
March	20	40	60
April	16	42	58
May	24	51	75
June	24	53	77
July	29	48	77
August	21	45	66
September	18	47	65
October	31	44	75
November	21	37	58
December	26	41	67
<b>TOTALS</b>	<b>269</b>	<b>541</b>	<b>810</b>

### Changes in Licensure

Each year, many LTC facilities experience changes in licensure through a change of the owner/operation of the facility, the addition of an Alzheimer's special care unit, bed increases and/or upgrade not requiring construction/renovation, a decrease in the number of licensed beds or closure of the facility. Table 5 describes the changes in licensure in LTC facilities in Illinois. In 2011, bed changes resulted in skilled care beds increasing by 330 beds, intermediate care beds decreasing by 1,229 beds and sheltered care beds decreasing by 85 beds. In addition, one replacement facility was approved for occupancy and licensed in 2011. Three new facilities were licensed in 2011 adding 167 skilled care beds. Four LTC facilities were closed in 2011, resulting in skilled care beds decreasing by 127, intermediate care for developmentally disabled beds decreasing by 16 beds and intermediate care beds decreasing by 186 beds.

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## **PART III DEPARTMENT ENFORCEMENT ACTIONS**

Since July 1, 1995, and the implementation of Public Act 88-278 [210 ILCS 3-212], a mechanism has been in place, through the certification program, to alert the Licensure Section of any federal enforcement action being imposed on facilities certified under Title XVIII or Title XIX of the Social Security Act.

### Violations

Professional reviews by the Division of LTC Field Operations may yield any combination of "A" or "B" violations or no violations. When a "B" level violation is found, a facility is required to describe its actions or proposed actions and its plan for correction. When an "A" violation is found, the Department imposes a conditional license, which is conditioned upon compliance with an imposed accepted plan of correction. If a reinspection indicates that a facility has not corrected a violation after an acceptable plan of correction has been established, a repeat violation may be issued.

**TABLE 7**  
**Total Licensure Violations Initially Issued\***  
**2009, 2010 and 2011**

<u>Violation Level</u>	<u>Date</u>		
	<u>2009</u>	<u>2010</u>	<u>2011</u>
"A" Violation	214	265	118
Repeat "A" Violation	3	0	1
"B" Violation	128	247	399
Repeat "B" Violation	1	5	11

\* Violations issued from all survey types, including annual, complaint, reinspection, et al.

Licensure Action

Based on the number and level of violations, adverse licensure action may be taken as follows:

**Conditional License** - Issued for a minimum of six months and up to one year, "conditional" on a facility's complying with an imposed plan of correction. Considered when "A," repeat "B" violations, or multiple or serious "B" violations occur.

**License Revocation or Denial** - Facility substantially fails to comply with the Nursing Home Care Act or the Department's regulations, including those having to do with staff competence, resident rights or the Nursing Home Care Act; licensee, applicant or designated manager has been convicted of a felony or of two or more misdemeanors involving moral turpitude; the moral character of the licensee, applicant or designated manager is not reputable; or the facility knowingly submits false information or denies access during a survey. Table 8 describes adverse actions.

**TABLE 8**  
**LTC Facility Adverse Licensure Action**  
**2009, 2010 and 2011**

<u>Type of Action</u>	<u>Date</u>		
	<u>2009</u>	<u>2010</u>	<u>2011</u>
Conditional License	99	102	92
Revocation or Denial of License	3	3	2
Suspension	0	0	0

Article III of the Nursing Home Care Act authorizes the Department to impose a fine or other penalty on facilities that violate the act. The more severe penalties are reserved for a facility that does not correct a violation within a required time period. In 2011, the Department imposed more than \$1.2 million in licensure fines against facilities and collected \$1 million as compared to \$1.4 collected in 2010. The amount collected would not necessarily be from those fines imposed in 2010, since most fines are contested by facilities and go through a hearing process before they can be collected.

Federal Certification Deficiencies in Nursing Homes

Federal enforcement regulations establish a classification system for certification deficiencies based on the severity of the problem and the scope, or the number of residents upon whom the non-compliance had or may have an impact. There are four levels of severity: potential for minimal harm, potential for more than minimal harm, actual harm and immediate jeopardy. The scope of deficiencies is classified as isolated, pattern or widespread. The 12 levels of scope/severity are identified using the letters A through L. The following is the scope/severity grid established to classify federal deficiencies:

	Isolated	Pattern	Widespread
Minimal Harm	A	B	C
More Than Minimal Harm	D	E	F
Actual Harm	G	H	I
Immediate Jeopardy	J	K	L

(For example, an H-level deficiency would represent a problem where several residents were actually harmed because of the facility’s non-compliance with regulations.)

Immediate jeopardy deficiencies represent the most serious problems that can occur in LTC facilities. These deficiencies often represent non-compliance that has resulted in serious injury or death to LTC residents. The Illinois LTC survey program has been recognized as a national leader in investigating and identifying non-compliance that puts residents in immediate jeopardy.

Abuse

Resident abuse is the most serious finding that the Illinois Department of Public Health addresses as a survey agency. The elderly residents of nursing homes are highly vulnerable, and the outcome of acts of abuse can be devastating for the resident and his/her family. To address this problem, the BLTC significantly increased its investigation of incidents of abuse in Illinois nursing homes through interagency referral and investigation agreements with the Illinois State Police Medicaid Fraud Unit. Working relationships with the Cook County State’s Attorney’s Office in Chicago and the U.S. Attorney’s Office in Springfield also have been established and remain in effect. The Department is involved with and represented on the Tri-County (Kane, Kendall & DeKalb) Elder Fatality Review Team and on the DuPage County Elder Fatality

Review Team. This team reviews deaths of community citizens as well as long-term care residents in these participating counties. Cases for review are selected by the participating county coroner's office staff. These cases are reviewed for possible abuse or neglect and recommendations that could possibly detect and prevent the situation from being repeated.

One goal among many for the BLTC was to continue to reach out to local law enforcement agencies, state's attorneys, coroners and medical examiners to address the issue of abuse and to build the working relationships necessary to enhance the Department's efforts. The success is reflected in additional working agreements and in the numerous requests to meet with local law enforcement agencies about the issue. The number of abuse cases investigated jointly by law enforcement and LTC staff has increased. LTC staff, along with members of the ISP/MFCU have offered informational sessions for law enforcement to reinforce efforts to combat abuse.

In 2002, the BLTC adopted a licensing rule that requires facilities to immediately contact local law enforcement authorities when a resident is the victim of abuse involving physical injury or of any sexual abuse. The intent of the rule is to reduce the incidence of abuse in Illinois nursing homes by combining the resources of the Department's investigation program with those of criminal law enforcement and prosecution agencies.

The statistics reflect that the incidence of abuse in Illinois nursing homes is slightly lower than the national average. This is an indication of the success of efforts to bring the full force of the law to bear when abuse is identified, as well as the improved efforts of the nursing home industry in identifying the problem.

With improvements in the federal database, new management reports listing various survey statistics are becoming available to state survey agencies. As more reports become available, the Department will use the information to identify trends in the quality of LTC and to help to determine survey program performance.

#### Federal Certification Actions

The Nursing Home Care Act allows the Department to use federal certification deficiencies in lieu of licensure violations. Licensure violations and enforcement actions against Medicare- and/or Medicaid-certified facilities are pursued only when the licensure standard is stricter than the federal requirement or when the violation is egregious and warrants enforcement action against a facility license.

This enforcement approach is most noticeable in the assessment of fines against non-compliant facilities. The federal formula for the assessment of fines, established in 1995, usually results in a higher fine than would be applied under state licensure except in cases of the most egregious violations. As a result, the majority of the fines collected from non-compliant LTC facilities come from federal certification enforcement actions. The following statistics illustrate the fines collected under the authority of the federal regulations.

### Federal Certification Civil Money Penalties

- Medicare\*/Medicaid Facilities (dually certified)
  - Calendar Year 1/1/11 to 12/31/11 - \$1,168,492
  - Medicaid Only Facilities
  - Calendar Year 1/1/11 to 12/31/11 - \$40,077
- Total CMPs collected: \$1,208,570

\*The Medicare portion of fines assessed against dually certified facilities is retained by the federal CMS.

### Monitors

The Division of LTC Field Operations places monitors and/or receivers in facilities to provide additional oversight. The monitor/receiver program must meet requirements, including an understanding of the Nursing Home Care Act and The CMS guidelines. While a Department employee may serve as a monitor when certain conditions exist, the Department generally relies on monitors from companies or individual contractors. The Department also utilizes the placement of monitors as a remedy for federal certification surveys.

The process of placement of monitors includes various methods and reasons for requesting a monitor. Placement of monitors is allowed through the Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300) or as authorized by the CMS as an enforcement remedy. Conditions justifying placement of monitors include determining whether an emergency exists that threatens the health, safety and welfare of the residents.

The Department placed monitors in seven facilities in 2011 and continued monitoring five other facilities from 2010. Eight of these facilities are licensed and certified to provide intermediate and/or skilled care services, while four of these placements involved DD facilities. The number of monitor visits per week varies, generally starting with three to four times per week and either increasing or decreasing depending on the facilities progress and correction of the identified problems. Three of these facilities had monitors placed while the facility was pending closure and to assist in the assessment of residents during discharge.

The monitor program continues to expand and be an asset to the Department. The Department considers the monitors/receivers and their reports as critical components of its ongoing effort to stay in touch with the day-to-day activities occurring at these facilities. The reports are copied and shared, on request, with other agencies in determining ongoing compliance and potential criminal issues.

Facilities utilize the monitor placement to recognize deficient practices and areas in need of more in-servicing, staffing and assistance in meeting the regulations to benefit the residents.

### Unlicensed Long-Term Care Facilities

The Nursing Home Care Act authorizes the Department to investigate any location reasonably believed to be operating as a LTC without a license. Only those locations that are the subject of a complaint are investigated. When a location is found to be in violation for the first time, the Department offers the owner the opportunity to come into compliance with the Nursing Home Care Act. If the owner fails to come into compliance, or is found in violation more than once, the location is then referred to the Office of the Attorney General for prosecution.

### Administrative Rules

In 2011, the Department continued to implement elements of Public Act 96-1372, which overhauled the Nursing Home Care Act [210 ILCS 45]. Additionally, the General Assembly passed Public Act 97-0038, which incorporated into the ID/DD Community Care Act many of the same reforms that PA 96-1372 made to the NHCA.

The first round of amendments to the Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300); the Sheltered Care Facilities Code (77 Ill. Adm. Code 330); and the Illinois Veterans' Homes Code (77 Ill. Adm. Code 340), from PA 96-1372, were adopted June 29, 2011. The second round, proposed June 24, 2011, involved informed consent on the administration of psychotropic drugs and staffing ratios for direct care personnel in nursing homes. Both issues turned out to be far more controversial than the Department anticipated, generating multiple comments. Because of universal opposition to the informed consent language, the Department withdrew that portion of the rulemaking and currently is revising the language. The Joint Committee on Administrative Rules (JCAR) issued a filing prohibition on the staffing language in its March 2012, meeting, "based on procedure, as opposed to the substantive content of the rule," according to the minutes of the March meeting. Since then, the Department has worked closely with stakeholders, including the Governor's Office, members of the General Assembly, representatives of the nursing home industry, and advocacy groups to arrive at language that all parties can agree on. The Department hopes to resubmit the language to JCAR by the end of July.

Also in 2011, the Department began drafting amendments to the Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350) and the Long-term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390) to implement changes to the ID/DD Community Care Act [210 ILCS 47] from PA 97-0038. The Department expects to propose those amendments prior to the end of 2012.

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**PART IV      CENTRAL COMPLAINT REGISTRY**

Table 9 describes allegations made to the Central Complaint Registry (CCR) in 2009, 2010 and 2011.

**TABLE 9  
CCR Contacts  
2009, 2010 and 2011**

<u>Type</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Total Calls	20,991	19,788	14,621
Total LTC Complaints	5,549	5,155	3,382
Total LTC Incident Reports	***523	***164	1
Reports of LTC Abuse and Neglect	3,506 (2,202)**	2,305	1,395
Physical Abuse	185	166	63
Sexual Abuse	82	72	27
Verbal Abuse	47	48	12
Neglect	1,837	1,564	668
Mental Abuse	359	336	120
Other Resident Injury	975	806	447
Sexual Assault – Resident to Resident	54	53	12
Verbal Assault	7	8	1
Physical Assault – Resident to Resident	60	73	18
Mental Assault – Resident to Resident	37	65	27

\*\*Total minus “other resident injury”

\*\*\*Only OIG Abuse/Neglect

In reviewing complaints, the Department determines the validity of each allegation rather than each complaint. A complaint may have one or more allegations. Table 10 identifies the validity and Table 11 the outcome of complaint allegations. (Note: The total in Table 11 may be less than the total allegations received, since determinations have not yet been made on all allegations received in 2011.)

**TABLE 10**  
**Validity of Allegations**  
**2009, 2010 and 2011**

<u>Allegations</u>	<u>2009</u> <u>Number</u>	<u>2010</u> <u>Number</u>	<u>2011</u> <u>Number</u>
Valid	2,298	2,316	1,811
Invalid	7,548	6,774	4,419
Undetermined	0	0	0
<b>TOTAL</b>	<b>9,846</b>	<b>9,090</b>	<b>6,230</b>

**TABLE 11**  
**Violation Levels for Allegations**  
**2009, 2010 and 2011**

<u>Level</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
"A"	80	93	59
Repeat "A"	0	1	0
"B"	28	42	89
Repeat "B"	0	0	1

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**PART V HEALTH CARE WORKER REGISTRY**

The Health Care Worker Registry is organized under the Division of Administrative Rules and Procedures. The principal responsibility of the Health Care Worker Registry (registry) is to provide information to health care employers in the state of Illinois about unlicensed health care workers. It includes certified nurse aide (CNA) training and competency test results; CNA administrative findings of abuse, neglect or theft; background checks and disqualifying convictions; waivers that make an exception to the prohibition of employment when there is a disqualifying conviction; and DD aide training. The registry provides the necessary applications, forms, and instructions needed to assist health care workers who are seeking to be certified as an Illinois nurse aide or who are seeking to be granted a waiver. The registry supports a public and a private website, has a registry call center and answers e-mail inquiries. A health care worker will not appear on the registry unless he or she has a criminal history records check pursuant to the Health Care Worker Background Check Act (225 ILCS 46/).

All health care employers who are licensed or certified long-term care facilities must check the registry before employing a non-licensed individual who will have or may have contact with residents or have access to the resident's living quarters or the financial, medical or personal records of residents. For the facility to hire the individual, the background check on the registry

must not be more than a year old if the facility has not been implemented into the new fingerprint background check process. If the facility has been implemented, the individual is required to have a fingerprint-based fee applicant inquiry requested by the Department. In either case, the individual may not work with disqualifying convictions unless and until the individual has been granted a waiver of those convictions. If the individual is to be hired as a CNA, the facility also must verify that the individual has met proper training and competency test requirements. The individual cannot have any administrative findings of abuse, neglect or theft. The facility can check the registry by visiting the registry's website at [www.idph.state.il.us/nar](http://www.idph.state.il.us/nar) or by calling the registry at 217-785-5133. For those who have been granted access to the Department's web portal and the registry's web application, they may visit the registry at [www.idphnet.illinois.gov](http://www.idphnet.illinois.gov)

**TABLE 12**  
**Aide Registry Statistics, 2011**

Active basic nursing assistant training programs	301
CNA competency testing	
Passed	18,360
Failed	3,755
No show	<u>1,269</u>
Total registered to test	23,384
DD aides added	6,037
HAB aides added	0
<b>Total number of CNAs on the registry as of 12/31/2011</b>	<b>204,166</b>
<b>Total number of DD aides on the registry as of 12/31/2011</b>	<b>81,895</b>

Administrative Findings of Abuse, Neglect and Theft

The Nursing Home Care Act and the Abused and Neglected Long-term Care Facility Residents Reporting Act require that allegations of suspected abuse, neglect or misappropriation of a resident's property by CNAs, DD Aides and HAB Aides be reported to the Department. After these allegations have been investigated and processed through an administrative hearing, those that have a final order of abuse, neglect or theft are published on the registry.

**Table 13**  
**Administrative Findings Statistics, 2011**

Administrative Findings

Abuse	77
Neglect	23
Misappropriation of property	<u>11</u>
Total administrative findings	111

Background Checks and Disqualifying Convictions

The Health Care Worker Background Check Act (Act) required all direct care employees hired prior to January 1, 2006 to have a name-based criminal history records check. Beginning on January 1, 2006, each long-term care facility operating in the state must initiate a criminal history records check for all unlicensed employees hired on or after January 1, 2006, with duties that involve or may involve contact with residents or access to the resident's living quarters or the financial, medical or personal records of residents. If a criminal history records check indicates a conviction of one or more of the offenses enumerated in Section 25 of the act, the individual shall not be employed from the time the employer receives the results of the background check until the time that the individual receives a waiver, if one is granted by the Department.

The Department licenses the following health care employers:

- community living facilities
- life care facilities
- long-term care facilities
- home health agencies, home services agencies or home nursing agencies
- hospice care programs or volunteer hospice programs
- sub-acute care facilities
- post surgical recovery care facilities
- children's respite homes
- freestanding emergency centers
- hospitals
- assisted living and shared housing establishments

The Department's goal in evaluating waivers is to continue the prohibition of employment, imposed by the act, of those individuals who might pose a threat to the clients of health care employers.

On August 13, 2007, an amendment to the Health Care Worker Background Check Act was signed into law. It requires all background checks to be fingerprint-based with the Department as the requestor. The Department is working on implementing this new amendment. The act gives the discretion to the director on implementing the new amendment as soon as it is determined practical to do so. The administrative rules for this amendment were not adopted until March 26, 2009. The Department began implementing the new fingerprint process in 2009. The newly adopted rules instruct health care employers to follow basically the same guidelines as in the old rules until implemented into the new fingerprint process. The criminal offenses stayed the same but a new dimension in granting waivers was added. If specific criteria are met, the individual may be granted a rehabilitation waiver without submitting a waiver application.

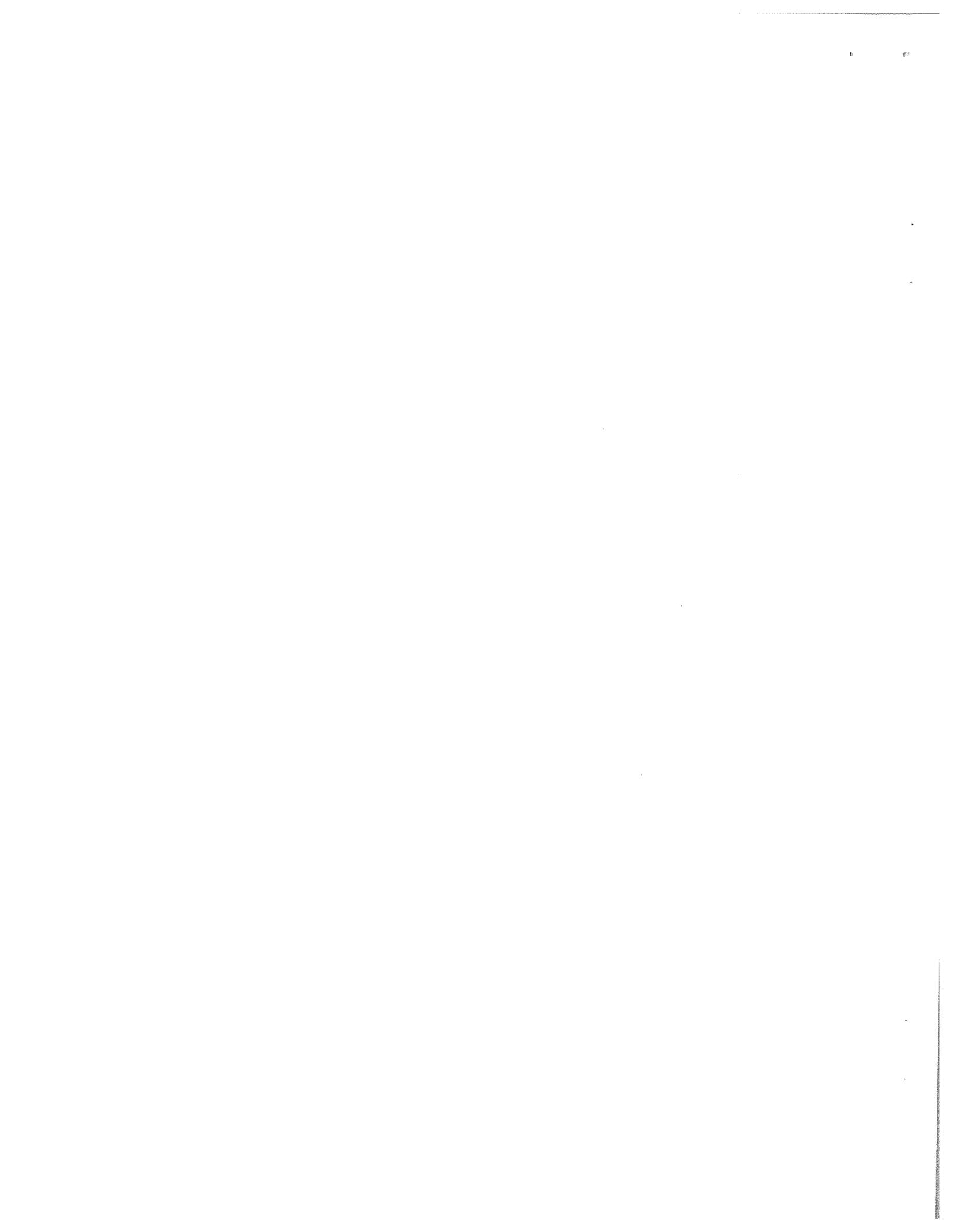
**TABLE 14**  
**Background Checks and Waiver Statistics, 2011**

Background checks added to the registry	132,023
Waivers	
Granted	1,341
Denied	<u>351</u>
Total waivers processed	1,692
Waivers revoked	10

A waiver is revoked if an individual is convicted of a new disqualifying offense.

**TABLE 15**  
**Ten-year Historical Waiver Statistics**

<u>Year</u>	<u>Granted</u>		<u>Denied</u>		<u>Revoked</u>
2001	524	67%	262	33%	19
2002	520	67%	254	33%	19
2003	413	60%	274	40%	15
2004	340	62%	208	38%	25
2005	358	73%	133	27%	16
2006	349	63%	207	37%	13
2007	494	69%	219	31%	5
2008	548	71%	223	29%	2
2009	712	76%	227	24%	5
2010	968	78%	274	22%	8
2011	1,341	79%	351	21%	10



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## APPENDIX A

### Determination to Issue a Notice of Violation\*

- a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the director or his designee shall review the findings contained in the report to determine whether the report's findings constitute a violation or violations for which the facility must be given notice and which threaten the health, safety or welfare of a resident or residents.
- b) In making this determination, the director or his designee shall consider any comments and documentation provided by the facility within 10 days of receipt of the report.
- c) In determining whether the findings warrant the issuance of a notice of violation, the director or his designee shall base his determination on the following factors:
  - 1) The severity of the finding.\* The director or his designee will consider whether the finding\* constitutes a merely technical nonsubstantial error or whether the finding\* is serious enough to constitute an actual violation of the intent and purpose of the standard.
  - 2) The danger posed to resident health and safety. The director or his designee will consider whether the finding\* could pose any direct harm to the residents.
  - 3) The diligence and efforts to correct deficiencies and correction of reported deficiencies by the facility.
  - 4) The frequency and duration of similar findings\* in previous reports and the facility's general inspection history. The director or his designee will consider whether the same finding\* or a similar finding\* relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur.
- d) If the Director or his designee determines that the report's findings constitute a violation or violations which do not directly threaten the health, safety, or welfare of a resident or residents, the *department shall issue an administrative warning* as provided in Section 300.277 (Section 3-303.2(a) of the Act)
- e) *Violations shall be determined under this Section no later than 60 days after completion of each inspection, survey and evaluation.* (Section 3-212(c) of the Act)

(Source: Added at 13 Ill. Reg. 4684, effective March 24, 1989)

Facilities participating in Medicare (Title XVIII) or Medicaid (Title XIX) will receive

"deficiencies" rather than "findings" or "violations."

Excerpted from 77 Ill. Adm. Code 300.272  
Text is not represented in full.

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### Determination of the Level of a Violation\*

- a) After determining that issuance of a notice of violation is warranted and prior to issuance of the notice, the Director or his or her designee will review the findings that are the basis of the violation, and any comments and documentation provided by the facility, to determine the level of the violation. Each violation shall be determined to be either a level AA, a level A, a level B, or a level C violation based on the criteria in this Section.
- b) The following definitions of levels of violations shall be used in determining the level of each violation:
  - 1) A "level AA violation" or a "Type AA violation" is *a violation of the Act or this Part which creates a condition or occurrence relating to the operation and maintenance of a facility that proximately caused a resident's death.* (Section 1-128.5 of the Act)
  - 2) A "level A violation" or "Type A violation" is *a violation of the Act or this Part which creates a condition or occurrence relating to the operation and maintenance of a facility that creates a substantial probability that the risk of death or serious mental or physical harm will result therefrom or has resulted in actual physical or mental harm to a resident.* (Section 1-129 of the Act)
  - 3) A "level B violation" or "Type B violation" is *a violation of the Act or this Part 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.* (Section 1-130 of the Act)
  - 4) A "level C violation" or "Type C violation" is *a violation of the Act or this Part 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.* (Section 1-132 of the Act)
- c) In determining the level of a violation, the Director or his or her designee shall consider the following criteria:
  - 1) The degree of danger to the resident or residents that is posed by the condition or occurrence in the facility. The following factors will be considered in assessing the degree of danger:
    - A) Whether the resident or residents of the facility are able to recognize conditions or occurrences that may be harmful and are

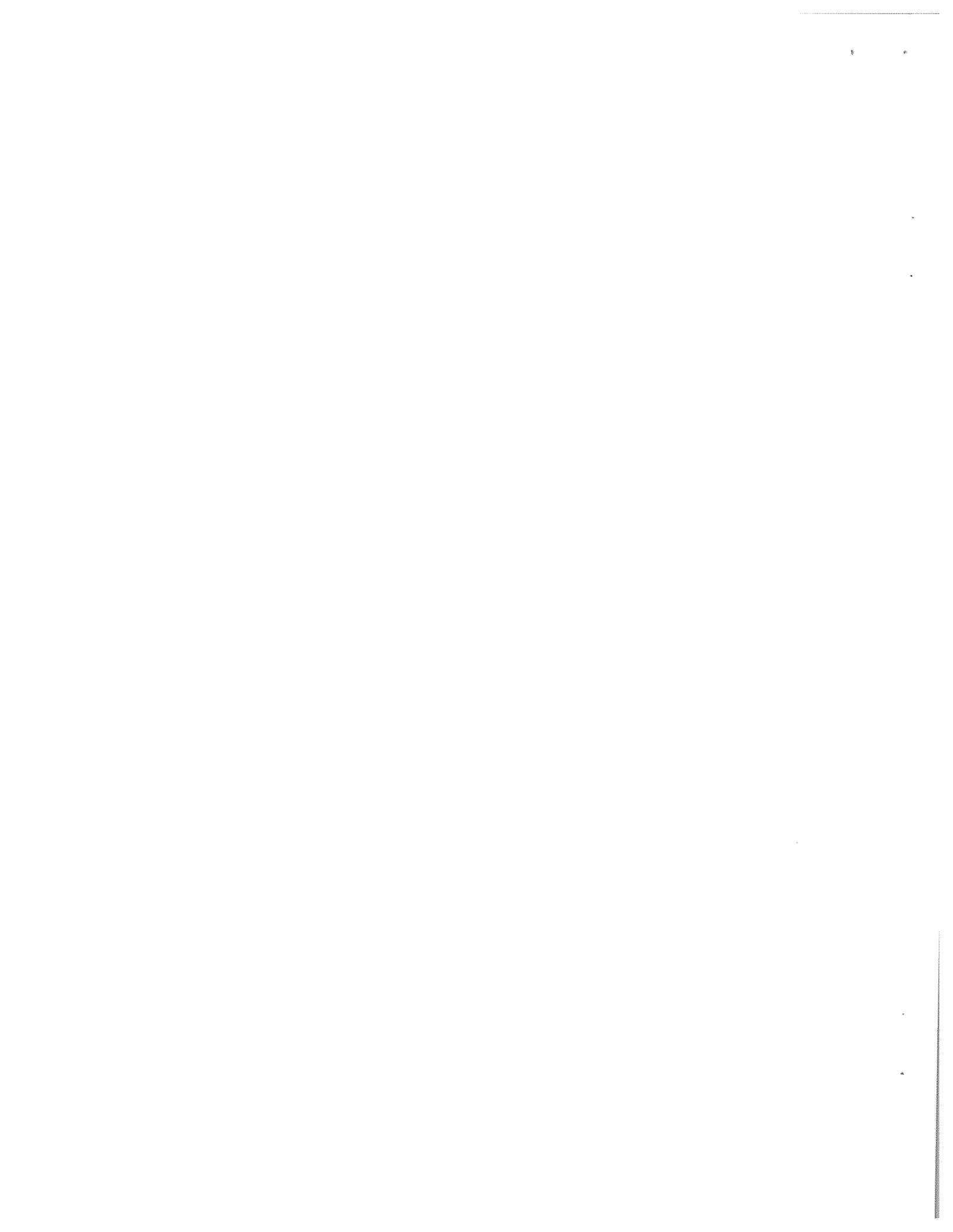
able to take measures for self-preservation and self-protection. The extent of nursing care required by the residents as indicated by review of patient needs will be considered in relation to this determination.

- B) Whether the resident or residents have access to the area of the facility in which the condition or occurrence exists and the extent of such access. A facility's use of barriers, warning notices, instructions to staff and other means of restricting resident access to hazardous areas will be considered.
  - C) Whether the condition or occurrence was the result of inherently hazardous activities or negligence by the facility.
  - D) Whether the resident or residents of the facility were notified of the condition or occurrence and the promptness of such notice. Failure of the facility to notify residents of potentially harmful conditions or occurrences will be considered. The adequacy of the method of such notification and the extent to which such notification reduced the potential danger to the residents will also be considered.
- 2) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility. In assessing the directness and imminence of the danger, the following factors will be considered:
- A) Whether actual harm, including death, physical injury or illness, mental injury or illness, distress, or pain, to a resident or residents resulted from the condition or occurrence and the extent of such harm.
  - B) Whether available statistics and records from similar facilities indicate that direct and imminent danger to the resident or residents has resulted from similar conditions or occurrences and the frequency of such danger.
  - C) Whether professional opinions and findings indicate that direct and imminent danger to the resident or residents will result from the condition or occurrence.
  - D) Whether the condition or occurrence was limited to a specific area of the facility or was widespread throughout the facility. Efforts taken by the facility to limit or reduce the scope of the area affected by the condition or occurrence will be considered.

E) Whether the physical, mental, or emotional state of the resident or residents, who are subject to the danger, would facilitate or hinder harm actually resulting from the condition or occurrence.

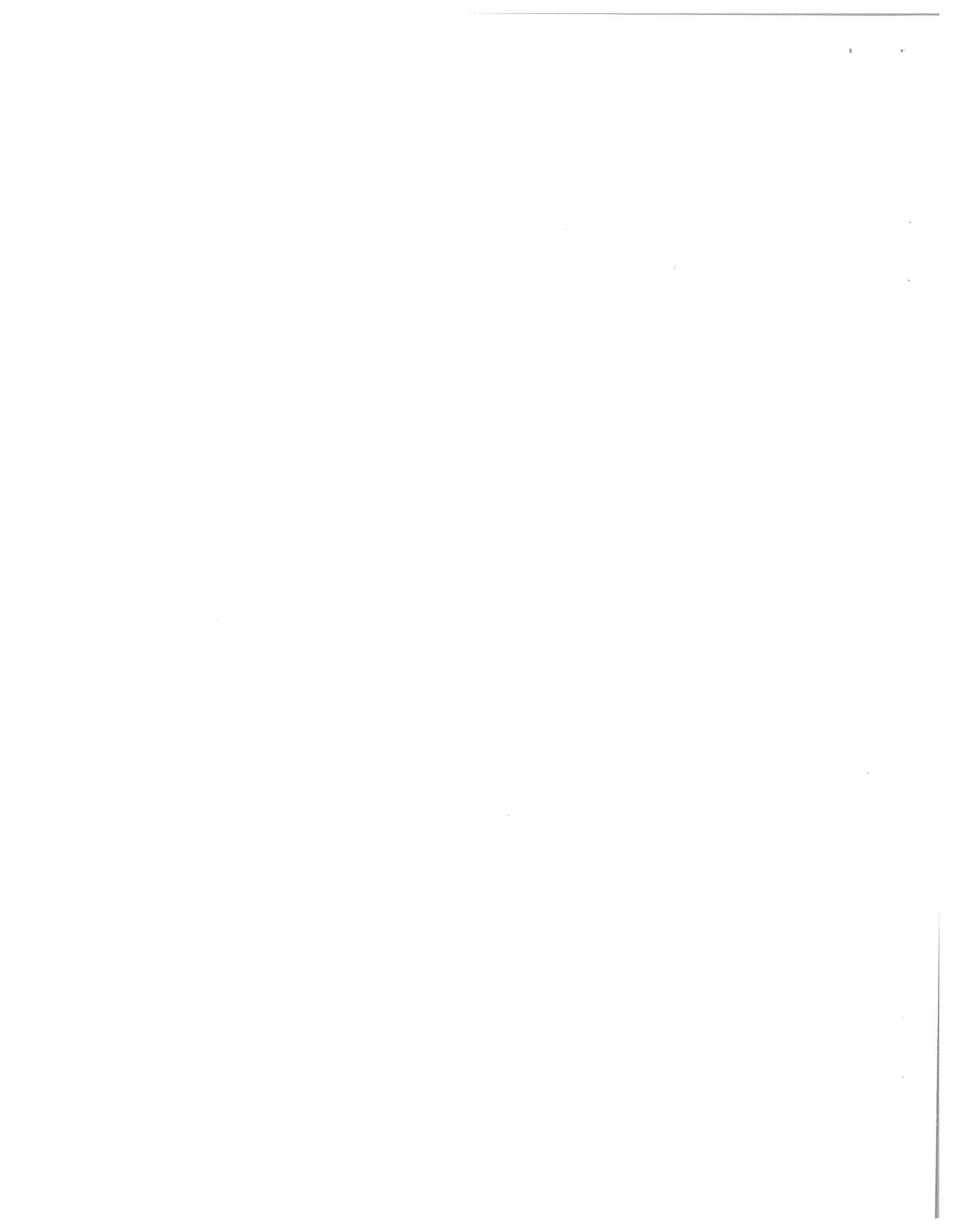
• Facilities participating in Medicare (Title XVIII) or Medicaid (XIX) will receive "deficiencies" rather than "violations."

Excerpted from 77 Ill. Adm. Code 300.274  
Text is not represented in full.



**Long-term Care Federal Training**  
**January 1, 2011 through December 31, 2011**

TRAINING	LOCATION	DATE of TRAINING	# OF ATTENDEES
ASPEN Advanced Training	Longmont, CO	8/15-26/11	2
ASPEN Basic Training	Longmont, CO	8/8-12/11	1
Basic ICF/MR Surveyor Training	Long Beach, MS	9/26-30/11	2
Basic LSC Training	Clearwater, FL	9/26-30/11	3
Basic LTC Training Health Facility Surveyor Training Course	St. Louis, MO	6/13-17/11	27
Basic LTC Surveyor Training	Sacramento, CA	12/5-9/11	17
Basic Home Health Agency	Denver, CO	7/24-27/11	1
	Orlando, FL	12/6-9/11	1
Basic Hospice	Baltimore, MD	1/25-28/11	1
Basic EMTALA	On-line	9/4-29/11	16
ESRD Annual	Las Vegas, NV	4/26-29/11	4
ESRD Basic	Minneapolis, MN	11/29-12/2/11	3
FSES/BC	Albany, NY	12/5-7/11	2
FSES/HC	San Antonio, TX	8/16-18/11	2
Fundamentals of Patient Safety for Hospital Surveyors	On-line	6/1-29/11	1
LSC Fire Inspector Certification	Phoenix, AZ	6/6-11/11	1
National QIES Technical Training	Baltimore, MD	6/21-23/11	3
OASIS	Baltimore, MD	2/15-17/11	2
OCR Clearance Process	On-line	2/1-28/11	1
RAI Coordinators Conference	San Antonio, TX	4/4-8/11	2
Survey and Certification Leadership Summit	Baltimore, MD	6/1-3/11	3



The Nursing Home Care Act and authority to promulgate rules thereunder  
[210 ILCS 45]

and

The Abused and Neglected Long-Term Care Facility Residents Reporting Act  
[210 ILCS 30]

Skilled Nursing and Intermediate Care Facilities Code  
(77 Ill. Adm. Code 300)

Sheltered Care Facilities Code  
(77 Ill. Adm. Code 330)

Illinois Veterans' Homes Code  
(77 Ill. Adm. Code 340)

Intermediate Care for the Developmentally Disabled Facilities Code  
(77 Ill. Adm. Code 350)

Long-Term Care for Under Age 22 Facilities Code  
(77 Ill. Adm. Code 390)

Long-Term Care Assistants and Aides Training Programs Code  
(77 Ill. Adm. Code 395)

Central Complaint Registry  
(77 Ill. Adm. Code 400)

MR/DD Community Care Act  
[210 ILCS 47]



Definition of Facility or Long-term Care Facility

"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 three 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 therefore, which is required to be licensed under the "Hospital Licensing Act";
- 3) Any "facility for child care" as defined in the Child Care Act of 1969;
- 4) Any "community living facility" as defined in the Community Living Facilities Licensing Act;
- 5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;
- 6) Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;
- 7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

- 8) Any supportive residence licensed under the Supportive Residences Licensing Act;
- 9) Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code; or
- 10) Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act; or
- 11) An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act.

Nursing Home Care Act  
[210 ILCS 45/1-113]

## Appendix F

### Summary of Long-term Care Facility Survey Process

<b>Task 1</b>	<b>Offsite Survey Preparation</b>
1)	Review Quality Measure/Quality Indicator Reports that indicate potential problems or concerns that warrant further investigation.
2)	Review Department files (including previous surveys, incidents, complaints, information on waivers/variances, OSCAR 3 and 4) for facility-specific information and make appropriate copies for team members.
3)	Contact the ombudsman.
4)	Pre-select potential residents to be reviewed.
<b>Task 2</b>	<b>Entrance Conference/Onsite Preparatory Activities</b>
1)	Inform administrator of the survey and introduce team members.
2)	Team coordinator conducts entrance conference; other team members proceed to initial tour.
3)	Give copies of the Quality Measure/Quality Indicator Reports and the OSCAR 3 and 4 reports and explain.
4)	Inquire about special features of the facility's care and treatment programs, organization, and resident case-mix.
5)	Determine if facility has a functioning quality assessment and assurance committee and its characteristics.
6)	Request information and required forms from facility
7)	Determine if the facility uses paid feeding assistants.
8)	For any survey outside the influenza season (Oct. 1-Mar 31), determine who is responsible for coordination and implementation of the facility's immunization program and a list of current residents who were in the facility during the previous influenza season.
9)	Post signs announcing that a survey is being performed.
10)	Contact the resident council president, provide a list of questions for the council, and arrange for date, time and private meeting space for interview with resident council.
<b>Task 3</b>	<b>Initial Tour</b>
1)	Tour facility to allow introduction of surveyors to residents and staff.
2)	Gather information on concerns that were pre-selected; new concerns discovered onsite; and whether residents pre-selected are still present.
3)	Identify resident characteristics and other candidates for the sample.
4)	Get an initial overview of facility care and services and a brief look at the facility's kitchen.
5)	Identify nursing staff on duty.

<b>Task 4</b>	<b>Sample Selection</b>
1)	Perform Final Phase I sample selection of case-mix stratified sample based on current facility census and guidelines established.
2)	Perform Final Phase II sample selection based on concerns noted not yet reviewed, un-reviewed related concerns, and current concerns for which information gathered is inconclusive.
3)	Check facility surety bond when indicated.
4)	Review policies and procedures pertaining to infection control when indicated.
5)	Complete Quality Assessment Assurance Review.
<b>Task 5</b>	<b>Information Gathering</b>
Subtask 5A	Observe the facility's environment that may affect the resident's life, health and safety.
Subtask 5B	Assess the facility's food storage, preparation and service.
Subtask 5C	Perform an integrated, holistic assessment of the sampled residents.
Subtask 5D	Assess of residents' quality of life.
Subtask 5E	Observe medication pass and assess the provision of pharmacy services.
Subtask 5F	Assess the facility's Quality Assessment and Assurance program.
Subtask 5G	Perform abuse prohibition review.
<b>Task 6</b>	<b>Information Analysis for Deficiency Determination</b>
1)	Review and analyze information collected to determine whether the facility has failed to meet one or more of the regulatory requirements.
2)	Determine whether to conduct an extended survey.
<b>Task 7</b>	<b>Exit Conference</b>
1)	Invite ombudsman and a member of the resident's council and one or two residents.
2)	Inform the facility of the survey team's observations and preliminary findings.
3)	Provide the facility with the opportunity to discuss and supply additional information pertinent to the identified findings.

ILLINOIS DEPARTMENT OF PUBLIC HEALTH  
REPORT OF FIRE IN HEALTH CARE FACILITIES

Date of Fire: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Time of Fire: \_\_\_\_ am/pm

Category: Laundry Room//Laundry Dryer//Electrical//Mechanical//HVAC-Exhaust//Kitchen  
Microwave//Cooking Equipment//Smoking Materials//Arson//Spontaneous Combustion  
Lightning//Gas Leak//Smoke Only//Other \_\_\_\_\_

Surveyor description of what happened: \_\_\_\_\_  
(Use Additional Sheet to Provide Additional Information as Needed to Fully Describe)

Fire Location: \_\_\_\_\_ (Provide Sketches/Floor  
Plan of Facility and Photographs to Show Location and Condition)

Number of Injuries?: Residents \_\_\_\_ Staff \_\_\_\_ Firemen \_\_\_\_ Other Responders \_\_\_\_ None \_\_\_\_

Extent of Injuries?: Burns \_\_\_\_ Inhalation \_\_\_\_ Other \_\_\_\_\_

Residents Evacuated From?: Room Wing Floor Building

Residents Evacuated to : Room \_\_\_\_ Wing \_\_\_\_ Floor \_\_\_\_ Building \_\_\_\_ Outside of Building \_\_\_\_

Were/Are Residents Relocated to Other Facilities as Result of fire? Yes \_\_\_\_ No \_\_\_\_

Method of Detection? Staff \_\_\_\_ Smoke Detector \_\_\_\_ Heat Detector \_\_\_\_ Sprinkler Head \_\_\_\_ Resident \_\_\_\_

Was Fire Alarm System Activated? Yes \_\_\_\_ No \_\_\_\_

Fire Alarm System Activation Method: Smoke Detector//Heat Detector//Sprinkler Head//Pull Station//Other \_\_\_\_

Extinguishment Method?: Extinguisher Sprinkler Head Other \_\_\_\_\_

Extinguished By?: Staff Fire Dept Staff & Fire Dept Others Not Applicable

Was Follow-up Call Made to Fire Department? Yes \_\_\_\_ No \_\_\_\_ Fire Department Responded?: \_\_\_\_\_

If Fire Extinguisher, was Extinguisher(s) Replaced? Yes \_\_\_\_ No \_\_\_\_

Was the Fire Alarm System Restored to Normal Working Condition? Yes \_\_\_\_ No \_\_\_\_

Was the Sprinkler System Restored to Normal Operating Condition? Yes \_\_\_\_ No \_\_\_\_

Was Fire Reported to Illinois Department of Public Health? Yes \_\_\_\_ No \_\_\_\_

Estimated Cost of Repairs: \$

Surveyor: \_\_\_\_\_ Report Date: \_\_\_\_ / \_\_\_\_ / 2009 060104



**APPENDIX H**

**Offenses That Are Always Disqualifying Except Through the Appeal Process**

<b>Illinois Compiled Statutes Citation</b>	<b>Offense</b>	<b>Additional Offense Added Effective</b>
[720 ILCS 5/8-1.1]	Solicitation of Murder	1/1/98
[720 ILCS 5/8-1.2]	Solicitation of Murder for Hire	1/1/98
[720 ILCS 5/9-1]	First-Degree Murder	
[720 ILCS 5/9-1.2]	Intentional Homicide of an Unborn Child	
[720 ILCS 5/9-2]	Second-Degree Murder	
[720 ILCS 5/9-2.1]	Voluntary Manslaughter of an Unborn Child	
[720 ILCS 5/9-3]	Involuntary Manslaughter and Reckless Homicide	
[720 ILCS 5/9-3.1]	Concealment of Homicidal Death	
[720 ILCS 5/9-3.2]	Involuntary Manslaughter and Reckless Homicide of an Unborn Child	
[720 ILCS 5/9-3.3]	Drug Induced Homicide	
[720 ILCS 5/10-1]	Kidnapping	
[720 ILCS 5/10-2]	Aggravated Kidnapping	
[720 ILCS 5/11-6]	Indecent Solicitation of a Child	1/1/98
[720 ILCS 5/11-9.1]	Sexual Exploitation of a Child	1/1/98
[720 ILCS 5/11-9.5]	Sexual Misconduct With a Person With A Disability	7/24/06
[720 ILCS 5/11-19.2]	Exploitation of a Child	1/1/98
[720 ILCS 5/11-20.1]	Child Pornography	1/1/98
[720 ILCS 5/12-3.3]	Aggravated Domestic Battery	1/1/04
[720 ILCS 5/12-4]	Aggravated Battery	1/1/98
[720 ILCS 5/12-4.1]	Heinous Battery	
[720 ILCS 5/12-4.2]	Aggravated Battery With a Firearm	
[720 ILCS 5/12-4.2-5]	Aggravated Battery With a Machine Gun or a Firearm Equipped With Any Device or Attachment Designed or Used for Silencing the Report of a Firearm	1/1/04
[720 ILCS 5/12-4.3]	Aggravated Battery of a Child	
[720 ILCS 5/12-4.4]	Aggravated Battery of an Unborn Child	
[720 ILCS 5/12-4.6]	Aggravated Battery of a Senior Citizen	
[720 ILCS 5/12-4.7]	Drug Induced Infliction of Great Bodily Harm	
[720 ILCS 5/12-13]	Criminal Sexual Assault	
[720 ILCS 5/12-14]	Aggravated Criminal Sexual Assault	
[720 ILCS 5/12-14.1]	Predatory Criminal Sexual Assault of a Child	
[720 ILCS 5/12-15]	Criminal Sexual Abuse	
[720 ILCS 5/12-16]	Aggravated Criminal Sexual Abuse	

[720 ILCS 5/12-19]	Abuse and Criminal Neglect of a LTC Facility Resident	
[720 ILCS 5/12-21]	Criminal Abuse or Neglect of an Elderly Person or Person With a Disability	
[720 ILCS 5/16-1.3]	Financial Exploitation of an Elderly Person or a Person With a Disability	
[720 ILCS 5/18-2]	Armed Robbery	
[720 ILCS 5/18-4]	Aggravated Vehicular Hijacking	1/1/98
[720 ILCS 5/18-5]	Aggravated Robbery	1/1/98

**Disqualifying Offenses That May be Considered for a Rehabilitation Waiver**

<b>Illinois Compiled Statutes Citation</b>	<b>Offense</b>	<b>Additional Offense Added Effective</b>
[720 ILCS 5/16-1]	Theft (as a misdemeanor)	
[720 ILCS 5/16-2]	Theft of Lost or Mislaid Property	1/1/04
[720 ILCS 5/16A-3]	Retail Theft (as a misdemeanor)	
[720 ILCS 5/19-4]	Criminal Trespass to Residence	
[720 ILCS 5/24-1.5]	Reckless Discharge of a Firearm	1/1/98
[225 ILCS 65/10-5]	Practice of Nursing Without a License	1/1/04
[720 ILCS 11/53]	Cruelty to Children	1/1/98
[720 ILCS 250/4]	Receiving Stolen Credit Card or Debit Card	1/1/04
[720 ILCS 250/5]	Receiving a Credit or Debit Card With Intent to Use, Sell or Transfer	
[720 ILCS 250/6]	Selling a Credit Card or Debit Card, Without the Consent of the Issuer	1/1/04
[720 ILCS 250/8]	Using a Credit or Debit Card With the Intent to Defraud	1/1/04
[720 ILCS 250/17.02]	Fraudulent Use of Electronic Transmission	1/1/04

**Disqualifying Offenses That May Be Considered for a Waiver By the Submission of a Waiver Application**

<b>Illinois Compiled Statutes Citation</b>	<b>Offense</b>	<b>Additional Offense Added Effective</b>
[720 ILCS 5/10-3]	Unlawful Restraint	
[720 ILCS 5/10-3.1]	Aggravated Unlawful Restraint	
[720 ILCS 5/10-4]	Forcible Detention	
[720 ILCS 5/10-5]	Child Abduction	
[720 ILCS 5/10-7]	Aiding and Abetting Child Abduction	
[720 ILCS 5/12-1]	Assault	
[720 ILCS 5/12-2]	Aggravated Assault	

[720 ILCS 5/12-3]	Battery	
[720 ILCS 5/12-3.1]	Battery of an Unborn Child	
[720 ILCS 5/12-3.2]	Domestic Battery	
[720 ILCS 5/12-4.5]	Tampering With Food, Drugs or Cosmetics	1/1/98
[720 ILCS 5/12-7.4]	Aggravated Stalking	1/1/98
[720 ILCS 5/12-11]	Home Invasion	1/1/98
[720 ILCS 5/12-21.6]	Endangering the Life or Health of a Child	1/1/98
[720 ILCS 5/12-32]	Ritual Mutilation	1/1/98
[720 ILCS 5/12-33]	Ritual Abuse of a Child	1/1/98
[720 ILCS 5/16-1]	Theft	
[720 ILCS 5/16-2]	Theft of Lost or Mislaid Property	1/1/04
[720 ILCS 5/16A-3]	Retail Theft	
[720 ILCS 5/16G-15]	Identity Theft	1/1/04
[720 ILCS 5/16G-20]	Aggravated Identify Theft	1/1/04
[720 ILCS 5/17-3]	Forgery	1/1/98
[720 ILCS 5/18-1]	Robbery	
[720 ILCS 5/18-3]	Vehicular Hijacking	1/1/98
[720 ILCS 5/19-1]	Burglary	1/1/98
[720 ILCS 5/19-3]	Residential Burglary	
[720 ILCS 5/19-4]	Criminal Trespass to Residence	
[720 ILCS 5/20-1]	Arson	
[720 ILCS 5/20-1.1]	Aggravated Arson	
[720 ILCS 5/20-1.2]	Residential Arson	1/1/04
[720 ILCS 5/24-1]	Unlawful Use of a Weapon	
[720 ILCS 5/24-1.1]	Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of the Department of Corrections Facilities	1/1/04
[720 ILCS 5/24-1.2]	Aggravated Discharge of a Firearm	
[720 ILCS 5/24-1.2-5]	Aggravated Discharge of a Machine Gun or a Firearm Equipped with a Device Designed or Used for Silencing the Report of a Firearm	
[720 ILCS 5/24-1.5]	Reckless Discharge of a Firearm	1/1/98
[720 ILCS 5/24-1.6]	Aggravated Unlawful Use of a Weapon	1/1/04
[720 ILCS 5/24-3.2]	Unlawful Discharge of Firearm Projectiles	1/1/04
[720 ILCS 5/24-3.3]	Unlawful Sale or Delivery of Firearms on the Premises of Any School	1/1/04
[720 ILCS 5/33A-2]	Armed Violence	1/1/98
[225 ILCS 65/10-5]	Practice of Nursing Without a License	1/1/04
[720 ILCS 150/4]	Endangering Life or Health of a Child	1/1/98
[720 ILCS 150/5.1]	Permitting Sexual Abuse of a Child	1/1/04
[720 ILCS 115/53]	Cruelty to Children	1/1/98
[720 ILCS 250/4]	Receiving Stolen Credit Card or Debit Card	1/1/04
[720 ILCS 250/5]	Receiving a Credit or Debit Card With Intent To Use, Sell or Transfer	1/1/04
[720 ILCS 250/6]	Selling a Credit Card or Debit Card, Without	1/1/04

	The Consent of the Issuer	
[720 ILCS 250/8]	Using a Credit or Debit Card With the Intent to Defraud	1/1/04
[720 ILCS 250/17.02]	Fraudulent Use of Electronic Transmission	1/1/04
[720 ILCS 550/5]	Manufacture, Delivery or Possession With Intent to Deliver or Manufacture Cannabis	
[720 ILCS 550/5.1]	Cannabis Trafficking	
[720 ILCS 550/5.2]	Delivery of Cannabis on School Grounds	1/1/98
[720 ILCS 550/7]	Delivering Cannabis to a Person Under 18	1/1/98
[720 ILCS 550/9]	Calculated Criminal Cannabis Conspiracy	
[720 ILCS 570/401]	Manufacture or Delivery or Possession With Intent to Manufacture or Deliver a Controlled Substance Other Than Methamphetamine, A Counterfeit Substance or a Controlled Substance Analog	
[720 ILCS 570/401.1]	Controlled Substance Trafficking	
[720 ILCS 570/404]	Distribution, Advertisement or Possession with Intent to Manufacture or Distribute a Look-Alike Substance	
[720 ILCS 570/405]	Calculated Criminal Drug Conspiracy	
[720 ILCS 570/405.1]	Criminal Drug Conspiracy	
[720 ILCS 570/407]	Delivering a Controlled, Counterfeit or Look-Alike Substance to a Person Under 18	
[720 ILCS 570/407.1]	Engaging or Employing Person Under 18 to Deliver a Controlled, Counterfeit or Look-Alike Substance	
[720 ILCS 646]	Violations Under the Methamphetamine Control and Community Protection Act	9/11/05

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## APPENDIX I

### Section 300.661 Health Care Worker Background Check

- a) The facility shall not *knowingly hire any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the following offenses* (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
  - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));
  - 3) Kidnapping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
  - 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
  - 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));

- 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) Criminal sexual assault or criminal sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));
- 10) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15) Financial exploitation of an elderly person or a person with a disability

(Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));

- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501));
- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));
- 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));
- 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on

school grounds, delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)); or

- 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407, and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not *knowingly employ or retain any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1) to (27) of this Section *unless the applicant, employee or employer obtains a waiver pursuant to this Section.* (Section 25(a) of the Health Care Worker Background Check Act)
- c) *A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a state agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided.* (Section 25(b) of the Act)
- d) For the purpose of this Section:
  - 1) *"Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.*
  - 2) *"Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department Of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.*
  - 3) *"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.*

- 4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)*
- e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:
    - 1) The employee's assigned job responsibilities as set forth in the employee's job description;
    - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and
    - 3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
  - f) *Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (w) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)*
  - g) *The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)*
  - h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.
  - i) *The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:*
    - 1) *That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.*
    - 2) *That the applicant or employee has a right to obtain a copy of the criminal*

*records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with this Section.*

- 3) *That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
- 4) *That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
- 5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)*
- j) *A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)*
- k) *An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)*
- l) *A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)*

- m) *An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:*
  - 1) A completed *fingerprint-based UCIA criminal records check* form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and
  - 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- n) *The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)*
- o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:
  - 1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and
  - 2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.
- p) *The Department may grant a waiver based on mitigating circumstances, which may include:*
  - 1) *The age of the individual at which the crime was committed;*
  - 2) *The circumstances surrounding the crime;*
  - 3) *The length of time since the conviction;*
  - 4) *The applicant's or employee's criminal history since the conviction;*
  - 5) *The applicant's or employee's work history;*
  - 6) *The applicant's or employee's current employment references;*
  - 7) *The applicant's or employee's character references;*
  - 8) *Nurse Aide Registry records; and*

- 9) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)*
- q) Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:
- 1) Single disqualifying misdemeanor conviction - waiver consideration no earlier than one year after the conviction date;
  - 2) Two to three disqualifying misdemeanor convictions - waiver consideration no earlier than three years after the most recent conviction date;
  - 3) More than three disqualifying misdemeanor convictions - waiver consideration no earlier than five years after the most recent conviction date;
  - 4) Single disqualifying felony convictions - waiver consideration no earlier than three years after the conviction date;
  - 5) Two to three disqualifying felony convictions - waiver consideration no earlier than five years after the most recent conviction date;
  - 6) More than three disqualifying felony convictions - waiver consideration no earlier than 10 years after the most recent conviction date.
- r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

- 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);
- 3) Kidnapping or aggravated kidnapping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);
- 4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);
- 5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);
- 6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);
- 7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
- 8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
- 9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);
- 10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]);
- 11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and
- 12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

- s) The director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), *based on mitigating circumstances* (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)
- t) *An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section.* (Section 40(d) of the Health Care Worker Background Check Act)
- u) *A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver.* (Section 40(f) of the Health Care Worker Background Check Act)
- v) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:
  - 1) certified court records;
  - 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
  - 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
  - 4) a signed affidavit from the individual concerning the validity of the report; or
  - 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.
- w) This Section *shall not apply to:*
  - 1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;*
  - 2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or*

- 3) *A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)*
- x) *An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998, must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)*
- y) *The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act). The facility shall include the individual's Social Security number on the criminal history record check results.*
- z) *The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)*
- aa) *The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.*

(Source: Amended at 27 Ill. Reg. 15855, effective September 25, 2003)



Further information is available from the Illinois Department of Public Health.

Office of Health Care Regulation 525 W. Jefferson St. Springfield, IL 62761 217-782-2913	General long-term care facility issues
Division of LTC Field Operations 525 W. Jefferson St. Springfield, IL 62761 217-785-2629	Violations, survey questions, rule interpretations
Division of LTC Quality Assurance 525 W. Jefferson St. Springfield, IL 62761 217-782-5180	Plan reviews, licensure, certification
Central Complaint Registry 525 W. Jefferson St. Springfield, IL 62761 800-252-4343 217-785-0321	Complaints, reporting resident abuse/neglect
Education and Training Section 525 W. Jefferson St. Springfield, IL 62761 217-785-5133 217-782-3070	Nurse aide training  Health Care Worker Registry
Division of Administrative Rules and Procedures 525 W. Jefferson St. Springfield, IL 62761 217-782-2913	Information on accessing rules or recommendations for rule changes; Health Care Worker Background Check Act

