State of Illinois
Illinois Department of Public Health

Long-term Care Annual Report to the Illinois General Assembly

August 2010

Illinois Department of
PUBLIC HEALTH

August 2010

Dear Members of the General Assembly,

Section 3-804 of the Nursing Home Care Act (210 ILCS 45) and Section 6 of the Abused and Neglected Long-Term Care Facility Residents Reporting Act (210 ILCS 30) require the Illinois Department of Public Health to report annually on actions taken under the authority of these acts.

In concert with the Department's authority to take licensure action against the state's nursing homes is its participation in long-term care regulatory activities that are part of the Medicare and Medicaid certification process under Titles XVIII and XIX of the federal Social Security Act. Using this process, the Department has focused its efforts on such issues as abuse and neglect of nursing home residents. Illinois continues to be a national leader in the area of enforcement remedies against noncompliant nursing homes.

Thank you for your interest in Illinois' long-term care facilities and their residents. I encourage you to gather as much information as you need to allow informed decisions concerning long-term care facilities. In this way, residents of long-term care facilities will continue to be the important members of our families, the community and society that they should be.

Sincerely,

Damon T. Arnold, M.D., M.P.H.
Director

REPORT TO THE ILLINOIS GENERAL ASSEMBLY
by the
ILLINOIS DEPARTMENT OF PUBLIC HEALTH

Nursing Home Care Act

The Department shall report to the General Assembly by April 1 of each year upon the performance of its inspection, survey and evaluation duties under this act, including the number and needs of the Department personnel engaged in such activities. The report also shall describe the Department's actions in enforcement of this act, including the number and needs of personnel so engaged. The report also shall include the number of valid and invalid complaints filed with the Department within the last calendar year. [210 ILCS 45]

Abused and Neglected Long-Term Care Facility Residents Reporting Act

The Department shall report annually to the General Assembly on the incidence of abuse and neglect of long-term care facility residents, with special attention to residents who are mentally disabled. The report shall include, but not be limited to, data on the number and source of reports of suspected abuse or neglect filed under this act, the nature of any injuries to residents, the final determination of investigations, the type and number of cases where abuse or neglect is determined to exist, and the final disposition of cases. [210 ILCS 30]

JANUARY 1, 2009, THROUGH DECEMBER 31, 2009

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PART I OVERVIEW

Nursing Home or Long-Term Care Facility

The Nursing Home Care Act (NHCA) 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, dress, etc. 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 NHCA authorizes the Department to establish different levels 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

Long-term care 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

Type of Facility	Number of Licensed and/or Certified LTC Facilities		
	2007	2008	2009
SNF Only	428	441	452
SNF/ICF	190	183	181
SNF/ICF/DD	1	1	1
SNF/ICF/SC	27	29	26
SNF/ICF/ICF-DD	1	1	1
SNF/SC	40	38	38
SNF & SNF/22 and Under	1	1	1
22 and Under Only	10	10	10
ICF Only	72	67	64
ICFDD Only	29	28	28
16 or Fewer Bed Only	262	262	262
ICF/ICFDD	0	0	0
ICF/SC	13	11	10
SC Only	51	51	49
CLF Only	28	28	28
Hospital-based LTC Units	53	45	43
Swing Beds	58	57	58
Supportive Residences	1	1	1
State Mental Health LTC Units	9	9	9
TOTAL FACILITIES	**1,274**	**1,263**	**1,262**

TABLE 2

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

Type of Facility	Number of Licensed and/or Certified LTC Beds		
	2007	2008	2009
SNF	79,960	80,543	80,495
ICF	28,879	22,857	22,025
ICFDD	10,098	10,043	10,009
22 and Under	979	985	995
CLF	396	396	396
SC	7,308	7,006	6,773
TOTAL BEDS	**127,620**	**121,830**	**120,693**

Department Structure

Within the Illinois Department of Public Health, the Office of Health Care Regulation (OHCR) regulates long-term care facilities. 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 long-term care 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 1,261 facilities in Illinois are regulated under the Illinois Nursing Home Care Act and/or federal certification requirements for Medicare/Medicaid participation. Of this number, 1,159 are licensed under the Nursing Home Care Act, and 102 are associated with a licensed hospital and are operated as a nursing home under the Hospital Licensing Act. A total of 1,182 (93.73%) of the 1,263 facilities participate in the federal certification program for Medicare and/or Medicaid. A central office staff in Springfield and approximately 204 surveyors headquartered in seven regional offices (Bellwood, Champaign, Edwardsville, Marion, Peoria, Rockford and West Chicago) conduct field survey activities for the 1,261 regulated long-term care 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 1,152 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 34 change of ownership applications and six initial licensure applications were processed and issued a license in 2009.

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 long-term care 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 long-term care 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 20,991 calls in 2009, which generated more than 5,549 long-term care complaints, with 3,643 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 long-term care facilities licensed under the NHCA, 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 long-term care 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-hour, seven-day or 30-day.

The **Training and Technical Direction Unit** coordinates and assists with training the Office of Health Care Regulation (OHCR) staff, other agency staff involved in long- term care issues, long-term care 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 2009, 13 new programs were approved and 21 programs were re-approved for 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). Eight waivers were processed this year resulting in one approval, four denials and three pending.

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.

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 Office of Health Care Regulation, including but not limited to hospitals, home health agencies, and assisted living facilities.

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, 2009, the Division of LTC Field Operations had 204 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 long-term care program must comply with all federal survey procedures. The Centers for Medicare and Medicaid Services (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. All recertification/validation surveys for non-nursing homes are conducted within the time frames established by law.

Frequency 4. Certification kits are entered into the federal database systems on a timely basis.

(Survey data must be entered into the databases no later than 70 days after the latest survey date.)

Quality 1. All deficiencies are documented in accordance with the Principles of Documentation and Appendix P and PP of the State Operation Manual.

(Surveys must be generated to support evidence of non-compliance).

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

Quality 3. All findings of non-compliance during FOSS surveys are documented at the appropriate severity level.

Quality 4. Significant deficiencies are correctly identified and cited for surveys evaluated by comparative surveys.

Quality 5. (merged with Q4) Immediate jeopardy is accurately identified and cited for surveys evaluated by comparative surveys.

(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 complaints and those incidents requiring an onsite survey are followed.

Quality 7. All complaints and those incidents requiring an onsite survey are triaged as immediate jeopardy and are investigated within the prescribed time limits.

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.

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

Enforcement and Remedy 3. Termination cases for non-nursing home providers/suppliers are processed timely.

Enforcement and Remedy 4. Timeliness of survey schedule of special focus facilities for nursing homes.

Implementation of Federal Certification Enforcement Regulations

The federal Centers for Medicare and Medicaid Services 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 Centers for Medicare and Medicaid Services 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.

Jon

Nurse Aide Training and Competency

Nursing assistants working in skilled nursing facilities, intermediate care facilities and home health agencies must meet certain requirements in order to work in that capacity. The primary method of meeting these requirements is successful completion of a Department-approved basic nursing assistant training program course. Training programs include theory instruction, demonstration of manual skills used in providing patient care and passing a written competency examination.

Military personnel, nursing students and persons having completed a foreign nursing program also may meet the equivalent of having completed an approved nurse assistant course.

All basic nurse assistant training programs in Illinois are approved by the Department Nurse Aide Training and Competency section. Instructors and evaluators in these programs also are approved for their respective programs. In 2009, the Illinois Department of Public Health approved 660 instructors and 325 evaluators.

Nurse assistant training programs are sponsored by various entities. Following is a breakdown of current sponsor types for active programs:

Community Colleges	99	Hospitals	5
Vocational School	41	Private Businesses	48
High Schools	54	Home Health Agencies	4
Nursing Homes	28		

In 2009, 20 new basic nurse aide training programs were approved. Programs are periodically monitored for compliance by Southern Illinois University-Carbondale staff. There were 25 monitoring visits conducted in 2009.

Persons working in facilities for the developmentally disabled also must meet requirements for direct support person training programs, which are approved and coordinated by the Illinois Department of Human Services.

During 2009, the Training and Technical Direction Unit worked closely with various committees in finalizing the basic nurse assistant training program requirements, including the Illinois Administrative Code, Part 395 and nurse aide training curriculum. revisions have been reviewed by Department legal staff and are under review by the Administrative Rules Section.

In response to Illinois Statute 20 ILCS 2310//2310-225 and 227 and based upon results of the Illinois Certified Nurse Assistant Incentive Program survey, the Illinois Career Ladder/Incentive Program committee completed the draft regulations and curriculum for an Advanced Nurse Aide Training program or CNA II. These regulations are being initially reviewed by the Administrative Rules Section. This level of training would promote professional development and expand the role of a nursing assistant in the long-term care setting.

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 2006, 2007, 2008 and 2009.

TABLE 3
Aide Abuse, Neglect and Misappropriation of Resident Property Findings 2006, 2007, 2008 and 2009

Allegation Type	2006	2007	2008	2009
Abuse (Total)	492	347	264	107
Physical	206	118	105	48
Verbal	195	117	85	26
Sexual	22	14	4	2
Mental	69	69	70	31
Neglect	39	30	28	13
Misappropriation of Property	33	36	26	26
CNA/Hab Aide cases Referred to Department Division of Legal Services	172	223	214	117
Cases Closed	107	157	159	78
Cases Processed	65	66	55	39

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.

In 2009, 81 individuals had substantiated findings of physical and/or sexual abuse posted on the Health Care Worker Registry. There were nine substantiated findings of egregious neglect as a result of this requirement.

TABLE 4
Surveys/Investigations/Inspection of Care
2006, 2007, 2008 and 2009

Type	2006	2007	2008	2009
Annual Licensure/Certification Surveys/Follow-up Surveys	5,875	6,015	6,008	5,939
Licensure/Certification Complaint Investigations/Follow-up Investigations	6,454	7,046	7,645	7,746
Medicaid IOC Reviews (DD Only)	302	307	306	304
Licensure Probationary/Initial Surveys	63	62	128	67
Certification Initials	10	6	16	4
Incident Report Investigations	829	696	575	531
Special Surveys – Licensure/Bed Certification (Off-cycle, After Hours)	223	357	206	170
TOTAL	**13,756**	**14,489**	**14,884**	**14,761**

Federal Survey Initiatives

The Centers for Medicare and Medicaid Services (CMS) continue with the same goals for the improvement of quality in skilled nursing facilities for 2009. The two goals were to reduce the rate of pressure ulcers and to reduce the usage of physical restraints in long-term care. Illinois was below the national average for the use of restraints. However, the rate of pressure ulcers remains a concern since the rate was above the national average. The pressure ulcer rate for Illinois is slowly decreasing.

The Quality Improvement Organization (QIO) for Illinois offered several trainings in 2009 that Departmental staff and providers were able to access. The trainings offered were:

January 2009	Teleconference	Fall Prevention
February 2009	Teleconference	Strategies for Reducing Physical Restraints
February 2009	Webinar x 2	Resident Satisfaction for Advancing Excellence
March 2009	Webinar	Reducing Physical Restraints Safety
May 2009	Teleconference	Tracking Coding for Restraints per MDS
November 2009	Seminar x 2	Pressure Ulcers 3 C's
November 2009	Seminar x 2	Engaging Residents and Alternatives to Physical Restraints

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

In addition, the QIO and other state agencies have formed a Pressure Ulcer Coalition, which is in the process of developing a tool to communicate resident risk levels for pressure ulcers as that person transitions from one health setting to another.

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

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 five facilities included in this program.

Federal Oversight and Support Surveys, FMS/Comparative Surveys and Life Safety Code Federal Monitoring Surveys performed by CMS also continued during this period.

The State Operations Manual (SOM), Appendices P and PP underwent a number of revisions. Effective January 31, 2009, CMS revised the guidance for LTC surveyors at F309, Quality of Care, which included a new general investigative protocol and new pain management guidance and investigative protocol. In addition, hospice and dialysis survey protocol language was moved from Appendix P and inserted into F309; weight loss investigative protocol also was removed from Appendix P and inserted into F325; guidance was deleted at F286 requiring paper copy storage of the Minimum Data Set (MDS) in facilities with electronic records and the Medicare demand billing survey process was removed from Appendix P, Part VII and the new survey process was inserted at Task 5C.

Effective June 17, 2009, revisions were made to the Guidance to Surveyors at several tags in Appendix PP concerning Quality of Life and Environment (regulatory language remained unchanged). These revisions were made in response to public recommendations from the 2009 CMS/Pioneer Network Environment Symposium. Guidance was added to F172 Access and Visitation Rights; F175 Married Couples; F241 Dignity; F242 Self Determination and Participation; F246 Accommodation of Needs; F247 Notice Before Room or Roommate Change; F252 Safe, Clean, Comfortable and Homelike Environment; F256 Adequate and Comfortable Lighting; F371 Sanitary Conditions; F461 Resident Rooms (closet space) and F463 Resident Call System.

The final CMS revisions for 2009 were effective September 30, 2009, and dealt with the deletion of Tags F442, F443, F444 and F445. The regulatory language for these tags was incorporated into F441, Infection Control, along with expanded guidance for surveyors.

Initiatives Supported by Federal Civil Money Penalty Funds

Greater Illinois Chapter of the Alzheimer's Association: The current grant, which was extended through June 30, 2010, funds scholarships for professional staff to cover fees for continuing education on dementia. Grant funds also included training sessions by Association staff to the Department survey staff statewide, with these sessions completed in 2009.

Illinois State Dental Society: This program has been in existence for nine years. Funding provides for development of a training video for long-term care (LTC) providers and training sessions conducted by Dental Society staff on-site in facilities. This grant continues through September 30, 2010.

Life Services Network, Illinois Health Care Association and the Illinois Council on Long-Term Care: The "Best Care" program is designed to reduce turnover rates in staff of LTC facilities and to promote the concept of person-centered care. The grantee conducted workshops in 120 nursing homes in 2009.

Guild for the Blind: Funding provides "New Visions" training programs for long-term care staff to improve communication and interaction with visually impaired residents and to address safety concerns specific to the visually impaired population. This grant was extended through June 30, 2010.

Illinois Pioneer Coalition: Funds are used to strengthen statewide and regional coalitions, provide pioneer concept training to LTC facilities and educational programs statewide. This grant continues through June 30, 2010.

Illinois Foundation for Quality Health Care: This foundation serves as the Quality Improvement Organization in Illinois, providing leadership and quality improvement training to LTC providers and department staff. This grant was extended through September 30, 2010.

Illinois State University, Mennonite College of Nursing: Funding supports various research projects aimed at developing strategies to improve recruitment and retention of registered nurses employed in Illinois nursing homes. The college is developing a master's level program for nurses in Gerontology. This grant ends June 30, 2010.

Innovations in Long-Term Care Quality Grants Fund: Funding for these grants is provided through monies collected from civil money penalties paid by long-term care providers. Grant focus is the improvement in direct care to residents and innovative ideas that may be shared with providers statewide. Grant applications are reviewed by an advisory committee comprised of Department staff, long-term care providers, resident advocates and members of the community.

Grants awarded during calendar year 2009 (SFY10) include:

Amount	Entity	Initiative
$50,000	Norwood Life Care Foundation	music therapy program
$100,000	Oakview Heights Continuous Care	construct sunroom, pathway
$48,200	Virgil Calvert Nursing and Rehabilitation	Koi pond, gazebo, planters
$49,200	Misericordia Home, Cacauley Res.	recycle, reduce and reuse
$40,000	Galena Strauss Nursing Home	patio recreation room
$50,000	Scott County Nursing Center	friendship garden
$200,000	Knox County Nursing Home	equipment for Bariatric Therapy
$100,000	Exceptional Care and Training Center	art therapy, horticulture, culinary arts
$48,750	The Renaissance at South Shore	small kitchen area for resident use
$20,400	The Claremont Extended Healthcare	garden on wheels – movable carts
$50,000	Fairview Haven, Inc.	private dining area, quiet room
$42,852	Burgess Square Healthcare Center	spa/salon
$47,900	Renaissance Park South	establish palliative care room
$38,500	Bronzeville Park Nursing and LC	urban garden with raised stands
$200,000	Hitz Memorial Home	establish skilled nursing apartments
$37,000	Sunny Hill Nursing Home	in-house TV channel, computers for residents
$50,000	The Vines at Countryside	exercise in nature path and garden
$100,000	Hillcrest Home	light therapy with fixture improvements
$47,466	Maryhaven Nursing and Rehabilitation Center	fitness trail, exercise program, juice bar
$50,000	Riverside Senior Living	innovation balance technology
$50,000	Westwood Manor	year-round greenhouse
$20,000	Lexington Health Care – Lake Zurich	music therapy/resident involvement
$20,206	Morrison Community Hospital	multi-purpose sensory room

Continued Focus on Abuse, Neglect and Theft in Nursing Homes

During 2009, staff of the Division of LTC Field Operations continued to focus on the prevention, detection and investigation of abuse, neglect and theft in Illinois long-term care 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 continues its 1997 agreement with the Illinois State Police Medicaid Fraud Control Unit (ISP/MFCU) 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. This continued effort by both agencies has resulted in increased convictions.

Numerous incidents and complaints of abuse/neglect and theft are referred to ISP/MFCU, which reviews the reports to determine which referrals to investigate for possible criminal action. In 2008, the ISP/MFCU had a total of three convictions in LTC abuse, neglect and theft cases. The smaller number of convictions this year appears to be a result of more involvement and convictions by local law enforcement. The Illinois State Police/Medicaid Fraud Control Unit opened a total of 81 cases for patient abuse and one case for theft, 14 drug diversion and financial exploitation. The process was recognized in 2001 as a best practice in the area of Quality Improvements in the Regulatory Process at the 31st Annual Association of Health Facilities Survey Agencies meeting. Also that same year, the federal Government Accounting Office (GAO) 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 2009 saw tremendous growth in the relationship between the Department and local law enforcement, state's attorneys, the FBI and coroners. The Bureau of LTC 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.

An agreement, established in 1997, with the DuPage County State's Attorney's Office, remains in effect and has resulted in prosecutory action ending in several convictions. Under the agreement, the Department automatically refers all complaints and incidents of abuse, neglect and theft in any LTC facility within DuPage County to the county's state's attorney for review and possible criminal prosecution. The Department also met with the Kane County State's Attorney's Office and Sangamon County State's Attorney's Office in response to requests to establish similar agreements. As a result of working with the Will County State's Attorney on several investigations of abuse and neglect in LTC facilities, that office also is working with the Department to implement an agreement.

In 2009, staff of the Division of LTC Field Operations remained involved with ongoing training focusing on prevention and detection of abuse and neglect. Presentations were conducted for associations at their annual conferences, for the elder service officer training sponsored by the Illinois State Local Law Enforcement Standards and Training Board, the Illinois Certified Public Accountant's Society, educational institutions, the Illinois State Triad, Chiefs of Police Association, LTC industry representatives, as well as the ISP/MFCU annual training. The program continues offering training to coroners regarding abuse and neglect, and what to look for. The Illinois Coronor's Association has appointed a committee of current members to meet with the Department in an effort to move toward a statewide death reporting requirement and universal death reporting form for long-term care. The Department is pursuing discussions regarding the potential promulgation of a licensing rule requiring all LTC facilities to report the death of a LTC resident to the county coroner or medical examiner. This additional review of a resident death is intended to detect any abuse or neglect that might otherwise go undetected. The overall goal of the Department is to inform, educate and collaborate in an effort to prevent and prosecute abuse and neglect in LTC facilities.

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 Attorney General's Advisory Council on Older Citizens Issues Task Force and a staff member serves on the Kane County Elder Fatality Review Team.

- 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 coordination with local state's attorneys and other state and county officials. Department staff was invited to discuss the issue of abuse and neglect at the annual Coroner's/Medical Examiner Association meeting and to explore what role the association members should play.

- Improvement in the investigative skills of LTC surveyors. A special three-day complaint and incident training is provided for surveyors, separate from the basic state training. Trainers consist of not only Department staff, but also representatives from the ISP/MFCU, the Department of Financial and Professional Regulation, the Attorney General's Office and local law enforcement.

- 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. Long-term care 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 Long-Term Care 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 long-term care residents 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 long-term care 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.

From January 1, 2009 through December 31, 2009:

The Department's team logged and reviewed 545 reports of sexual abuse and/or deaths in LTC facilities. Of that 545, 124 (22.75) were referred to the designated team for review. The team reviewed 54 cases, leaving a carryover of 70 "2009 cases" for team review in 2010. The team is mandated to meet quarterly. This team met five times in 2009. Based on recommendation from the team, the Department updated "Neglect Guidelines" and they were provided to all long-term care supervisors and surveyors statewide. Due to a resignation, the team has only had one health facility surveillance nurse since March 2009. The team is working diligently to set up a second review team.

Identified Offender Project

P.A. 094-0163 requires facilities to check the Illinois State Police and Department of Corrections sex offender Web sites 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. The Special Investigations Unit has granted three waivers in 2009.

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 Regulations. The Office of Health Care Regulation is responsible to ensure proper tracking and monitoring of identified offenders is done in long-term care 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.

Review of Construction/Renovation/Addition Plans

In 2009, 175 projects that resulted in additional beds, new facilities, upgrading of beds or other construction/renovation were approved, an increase from 127 in 2008. Two new facilities were licensed in 2009 for an additional 76 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 2009.

TABLE 5
Construction/Renovation/Additions*, and Upgrades Approved by Project Review Unit in 2009

Month	Number of Projects Approved
January	12
February	17
March	9
April	30
May	23
June	12
July	19
August	11
September	19
October	4
November	7
December	12
Total	**175**

* 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, long-term care 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, 2009, to December 31, 2009, 132 plan review projects were completed. These projects involved architectural, electrical, mechanical, and automatic sprinkler system reviews, included on-site surveys, most involving multiple staff. Many of the on-site surveys required two or more days to perform. More than half of the projects submitted during calendar year 2009 were not subject to a fee. The total amount of fees paid for reviews in calendar year 2009 was $483,865.

During 2009, the Long-Term Care Plan Review Unit also performed required physical plant evaluations whenever a licensed long-term care facility 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

One SBSOP, which consisted of three weeks of training, was held in 2009. Three 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 three new surveyors successfully completed the SBSOP and Federal Basic Orientation. All

three individuals passed the SMQT and became qualified to survey long-term care 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 long-term care setting.

In addition to training new employees, the Division of Long-Term Care 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 2009, the following training program topics were presented during the LTC supervisor's meetings: Complaint Manual Update, CMS 671 Completion; CMS Star Ratings; Legal Issues Pertaining to LTC; New Hospice Condition of Participation and 418.112 Hospices the Provide Hospice Care to Residents of a SNF/NF or ICF/MR; Travel and INA Contract Update; Respiratory Services; Illinois Foundation on Quality Healthcare Update; Abuse Prevention Review – Citing Neglect; Swine Flu Update; Revised Subpart S Survey Guidance and Forms; Review of TY 2009 FOSS and Comparative Report Results; Amended Administrative Code 955 – Health Care Worker Background Check; CMS Influenza and Pneumococcal Requirements; Principles of Documentation; TB Update; S & C 09-53 Surveying Facilities that use Electronic Health Records; Culture Change Progress in Illinois and The Language of Culture Change; Survey Documentation Concerns; CMS Mid Year Performance Standards Report; Legal-Preparing Reports with an Eye Toward Litigation; Special Investigations Unit Update; Legal-Good Samaritan Act; After Hour Surveys; CMS Report on FOSS and Comparatives and F441 Infection Control and Glucometers; Illinois GPRA Goal Results; Updates on Subpart S, Using ASPEN; Neglect Memo and Guidelines.

This year, in conjunction with the three state health care associations, the Division of Long-Term Care Field Operations state training coordinator provided joint training for providers and Long-Term Care surveyors and supervisors on federal SNF/NF requirement revisions. Five training sessions were conducted statewide and covered CMS guidance revisions for F309 Quality of Care and Pain Management.

The next joint trainings covered Quality of Life and Environmental Tag revisions for which seven statewide sessions were held.

All regional and central office long-term care staff attended these training sessions as mandated by CMS.

During 2009, there were three mandated CMS satellite broadcasts or Web-based training for long-term care surveyors and managers. Topics covered included: Compliance With Liability Notices and Beneficiary Appeal Rights; Quality Improvement Survey; and MDS 3.0 Part 1.

Mandatory training for all long-term care staff also included Principle of Documentation Review and Performance Standard Q1 Corrective Action Plan.

The Division of Long-Term Care 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 Summit and Conference; Wound Care Symposium, Specialized Wound Management; Restraint Reduction; IDPH Immunization Conference, Illinois Food Safety Symposium, ADA Annual Conference, Alzheimer's Association seminars; Illinois Environmental Health Association Annual Conference, Integrated Collaborative Emergency Preparedness Training; Annual CNA Instructor Conference and the Annual Long-Term Care Ombudsman Conference.

Information regarding federal surveyor training and education is maintained by CMS in a centralized database called the Learning Management System (LMS).

As survey processes, procedures and electronic submission of survey information continue to evolve in the Division of Long-Term Care 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 the necessary care and services required.

Summary of Fire Situations

Illinois Department of Public Health received 40 life safety incident reports from long-term care facilities in 2009. During this reporting period, there were no resident deaths, one resident injury and one staff injury. In smoking-related incidents, there was one resident injury (nasal burn) when a resident wearing oxygen lit a cigarette. A staff person was treated for smoke inhalation. No injuries were sustained in arson related incidents.

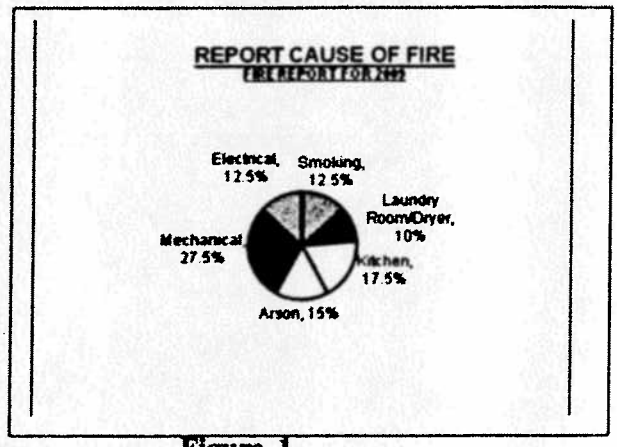

Figure 1

Information gathered due to fire 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.

The three major causes of fire were mechanical–related with 11 incidents, seven kitchen related incidents and six arson incidents. The number of arson incidents decreased from seven the previous year. In all six arson cases, residents were identified as being the perpetrator. This supports the importance of (a) resident 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).

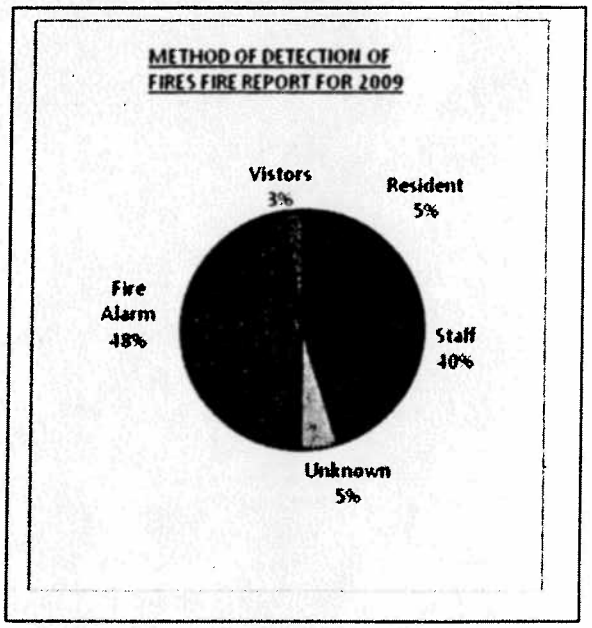

Figure 2

Kitchen-related incidents occurred during food preparation. mechanical incidents were deemed to be electrical involving primarily heating and cooling equipment. These causes support the need for staff education and preventative maintenance programs for cooking, laundry, heating and ventilation and electrical equipment/systems.

There were five reports of careless use of smoking materials. Enforcement of facility smoking policies, identification of potential problem smokers, enforcement of oxygen administration regulations and maintenance of fire detection and extinguishment systems are important.

The facility's fire alarm system was responsible for detecting 47 percent of the incidents (19 of 40). This illustrates the importance of properly maintaining and testing fire alarm systems. The second most successful means of detection was staff (16 of 40). This demonstrates the importance of regular fire drills at varying times.

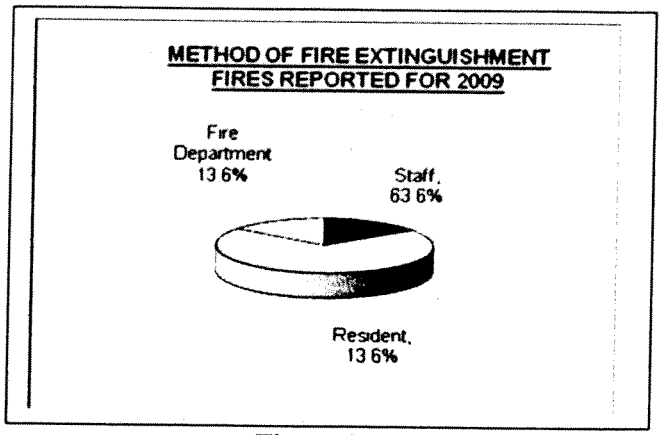

Figure 3

Staff continued to be an important part of fire extinguishment. Staff members were credited with extinguishing 14 fires. Fire departments were credited with extinguishing three fires, while two were extinguished by a sprinkler system (Figure 3).

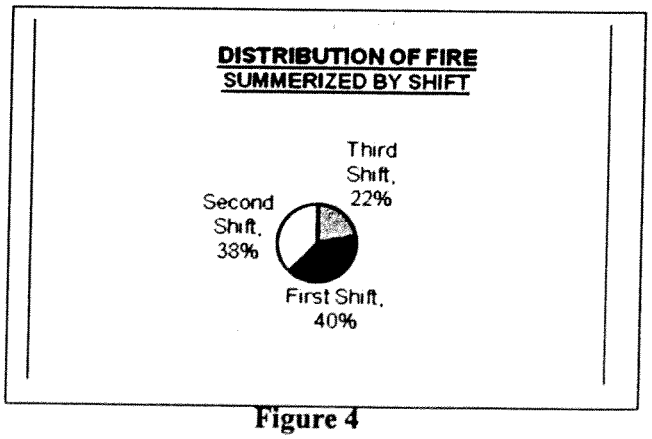

Figure 4

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). The majority of the incidents (16 of 40) occurred during first shift. The distribution of fires among these shifts is shown in Figure 4. The greater number of incidents occurred between the hours of 8 a. m. and 9 a. m., noon and 1 p. m. and 2 p. m. and 3 p. m., when four occurred. The second highest number occurred between 4 a. m. and 5 a. m., 4 p. m. and 5 p. m., and 8 p. m. and 9 p. m., when three occurred. The specific hourly periods of occurrence are shown in Figure 5. The incidents involving resident and staff injuries occurred on first shift.

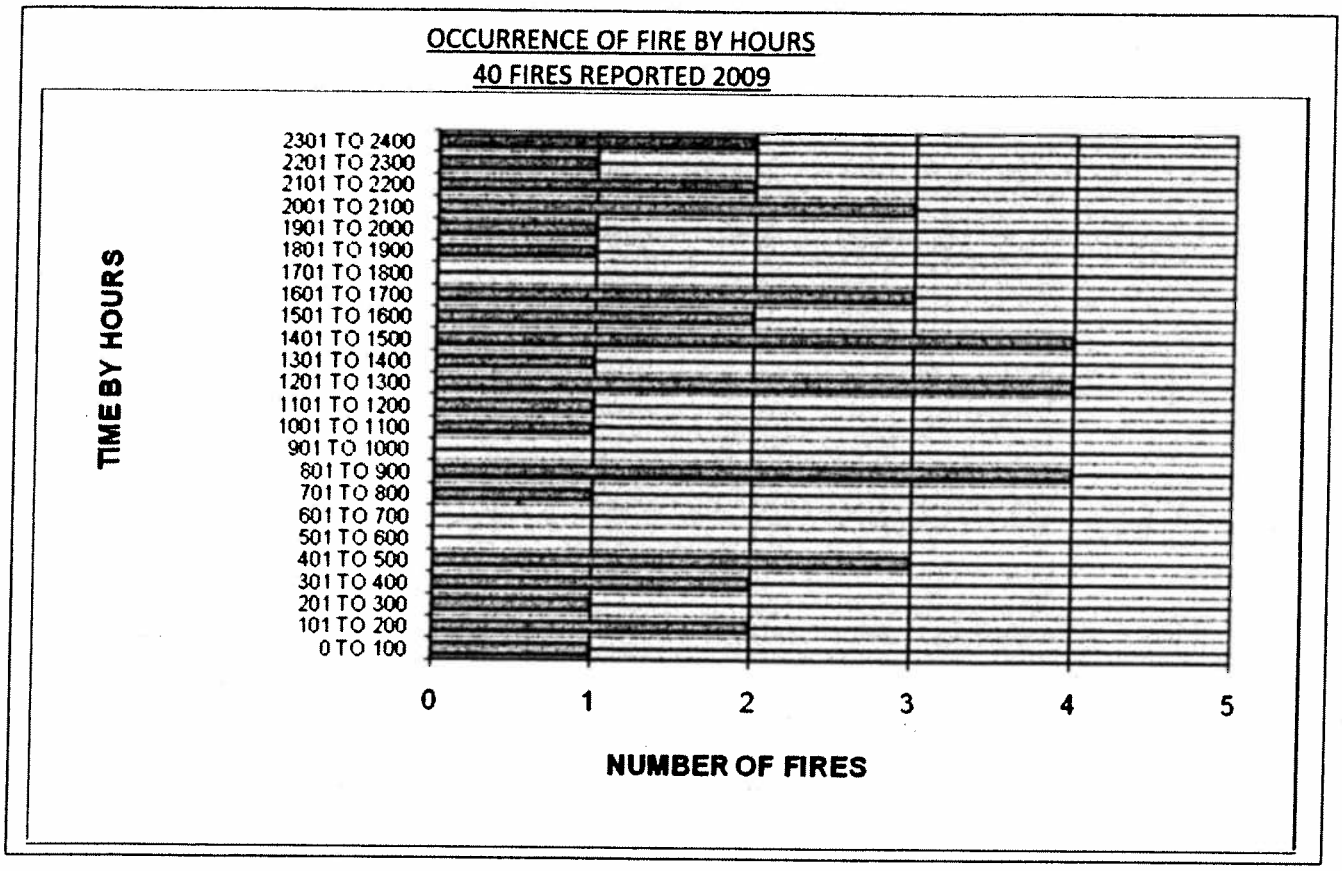

Figure 5

The severity of fires in nursing homes in the state remains at a minimal level through the Department's enforcement of Life Safety Code Standards, focusing on early detection, extinguishment systems, staff education (fire drills), and effective maintenance programs.

Developmental Disabilities Section

During 2009, staff of the Developmental Disabilities (DD) Section continued to provide certification and licensure surveys for intermediate care facilities for persons with developmental disabilities (ICF/DD's), including state operated facilities. The Section also continued to provide licensure surveys for community living facilities (CLF's). Other surveys included complaint and incident report investigations, follow-ups and special certification surveys when necessary.

Staff of the DD section continued to find multiple incidents of abuse and/or neglect in the area of client protections. Issues ranged from allegations of abuse, such as sexual, physical and verbal abuse. Neglect including facility failure to provide goods and services to meet the needs of persons served was also increased in deficient practices cited especially in the area of health care services. Client to client aggression without sufficient safeguards is an issue resulting in increased deficiencies and/or conditions of participation.

Increases in deficient practices in state-operated facilities continue to be an area of concern in the DD section. State operated facilities again had multiple surveys that included condition-level deficiencies and immediate jeopardy situations.

Training during 2009 continued on a quarterly basis with supervisor follow-up in the interim. Training focus has included team building of the section as a whole, including the clarification of regulations and survey procedures for added consistency. Increased oversight, direction and feedback of report writing were provided to surveyors during 2009. Provider training was continued with excellent feedback. 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 DD services and provider organizations continues to be an objective for the coming year in an effort to increase consistency and provision of care.

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 2009, the Department issued 823 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
2009 License Renewal Information

Month	1 Year	2 Year	TOTAL
January	8	49	57
February	15	50	65
March	10	42	52
April	17	39	56
May	36	51	87
June	25	50	75
July	56	42	98
August	21	52	73
September	18	45	63
October	22	45	67
November	15	43	58
December	20	52	72
TOTALS	**263**	**560**	**823**

License Application Fees

The application fee for a long-term care facility license is a standardized fee of $995. Facilities that pay a fee or assessment pursuant to Article V-C of the Illinois Public Code are exempt from the license fee (facilities licensed as intermediate care for the developmentally disabled or skilled/under Age 22 only). Facilities licensed for any other level of care in addition to intermediate care for the developmentally disabled or skilled/under Age 22 are not exempt from this fee.

Changes in Licensure

Each year, many long-term care 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 8 describes the changes in licensure in long-term care facilities in Illinois. In 2009, bed changes resulted in skilled care beds increasing by 685 beds, intermediate care beds decreasing by 592 beds, sheltered care beds decreasing by 174 beds. In addition, one replacement facility was approved for occupancy and licensed in 2009. Two new facilities were licensed in 2009. Five long-term care facilities were closed in 2009, resulting in skilled care beds decreasing by 118, sheltered care beds decreasing by 67 beds and intermediate care for developmentally disabled beds decreasing by 45 beds.

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*
2007, 2008 and 2009

Violation Level	Date		
	2007	2008	2009
"A" Violation	177	97	214
Repeat "A" Violation	2	0	3
"B" Violation	96	21	128
Repeat "B" Violation	7	0	1

* 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 NHCA or the Department's regulations, including those having to do with staff competence, resident rights or the NHCA; 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
2007, 2008 and 2009

Type of Action	Date		
	2007	2008	2009
Conditional License	158	107	99
Revocation or Denial of License	3	1	3
Suspension	0	0	0

Article III of the NHCA 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 2009, the Department imposed $2,081,500 million in licensure fines against facilities and collected $1,098,227 as compared to $1,036,320 collected in 2008. The amount collected would not necessarily be from those fines imposed in 2008, 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.)

The Centers for Medicare and Medicaid Services provides reports that contain data about residents in Medicare and Medicaid certified facilities and include a state-by-state comparison of selected survey statistics. The Illinois Department of Public Health's Bureau of LTC analyzes these federal reports as a means of evaluating survey program performance. Any significant variance from the national averages is examined to determine whether there is a problem with survey performance or whether the variance is because of an identifiable improvement or decline in industry compliance. Maintaining consistency with or being somewhat stricter than the national survey statistics is an indication of efficient survey program performance. Following are some key survey statistics from the federal report.

Take out

Actual Harm/Immediate Jeopardy

The most serious deficiencies identified in nursing homes are those that involve residents who have been harmed or put at risk of serious injury or death as a result of the facility's failure to comply with regulations. While the survey program is mandated to identify all levels of non-compliance during surveys, efforts are specifically focused on problems where a negative resident outcome has occurred.

Actual harm and immediate jeopardy deficiencies, those at the G through L level, are the most serious deficiencies in the federal certification program. Actual harm deficiencies are cited when surveyors gather evidence of non-compliance that negatively compromised a resident or resident's physical, mental or pyschosocial well-being. Immediate jeopardy is cited when surveyors identify a situation of non-compliance in which immediate corrective action is necessary because serious injury, impairment or death to a resident or residents is likely to occur. In accordance with the scope and severity grid, actual harm deficiencies are cited at the G, H and I levels. Immediate jeopardy deficiencies are cited at the J, K and L levels. Statistics are provided to Illinois by CMS Region V Chicago (Illinois and five other states compose Region V).

As the statistics indicate, the Illinois survey program's citation of actual harm deficiencies is slightly higher than the national average. This reflects the program's focus on non-compliance that results in residents being harmed. The Department directs intense regulatory scrutiny on issues related to the abuse and neglect of long-term care residents.

Leave in

Immediate jeopardy deficiencies represent the most serious problems that can occur in long-term care facilities. These deficiencies often represent non-compliance that has resulted in serious injury or death to long-term care residents. The Illinois long-term care 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's 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 Bureau of Long-Term Care 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 and with the DuPage County State's Attorney's Office. 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. In addition, preliminary meetings have been held with the Kane County State's Attorney's Office and the Will County State's Attorney's Office to establish more interagency referral and investigation agreements to deal with abuse. The Department is involved with and represented on the Kane County 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 Kane County. Cases for review are selected by the Kane 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 Bureau of LTC 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 with state's attorneys 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 Bureau of LTC 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 long-term care 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 long-term care 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 1/1/09 to 12/31/09 - $1,768,649
- Medicaid Only Facilities
  Calendar Year 1/1/09 to 12/31/09 - $115,245
  Total CMPs collected: $1,888,894

*The Medicare portion of fines assessed against dually certified facilities is retained by the federal Centers for Medicare and Medicaid Services.

Monitors

The Division of Long-Term Care 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 Center for Medicare and Medicaid Services 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 Centers for Medicare and Medicaid Services 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 nine facilities in 2009 and continued monitoring three other facilities from 2008. All 12 of these facilities are licensed and certified to provide intermediate and/or skilled care services. The number of monitor visits per week varies, generally starting with three to four times per week and decreasing as the facility shows progress toward correction of the identified problems.

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.

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The Department placed monitors in 11 facilities in 2008 and continued monitoring two other facilities from 2007. All 13 of these facilities are licensed and certified to provide intermediate and/or skilled care services. The number of monitor visits per week varies, generally starting with three to four times per week and decreasing as the facility shows progress toward correction of the identified problems.

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Unlicensed Long-Term Care Facilities

The NHCA authorizes the Department to investigate any location reasonably believed to be operating as a long-term care facility 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 NHCA. 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.

PART IV CENTRAL COMPLAINT REGISTRY

Table 9 describes allegations made to the Central Complaint Registry (CCR) in 2006, 2007, 2008 and 2009.

TABLE 9
CCR Contacts
2006, 2007, 2008 and 2009

Type	2006	2007	2008	2009
Total Calls	19,103	22,209	20,904	20,991
Total LTC Complaints	5,303	5,714	5,713	5,549
Total LTC Incident Reports	***380	***523	***523	***523
Reports of LTC Abuse and Neglect	2,922 (2,037)**	3,197 (2,202)**	3,506 (2,202)**	3,506 (2,202)**
Physical Abuse	163	130	198	185
Sexual Abuse	88	74	82	82
Verbal Abuse	29	26	35	47
Neglect	1,377	1,616	1,798	1,837
Mental Abuse	190	177	240	359
Other Resident Injury	895	955	1,013	975
Sexual Assault – Resident to Resident	60	60	42	54
Verbal Assault	3	4	5	7
Physical Assault – Resident to Resident	81	81	81	60
Mental Assault – Resident to Resident	36	34	34	37

**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 2007.)

TABLE 10
Validity of Allegations
2007, 2008 and 2009

Allegations	2007 Number	2008 Number	2009 Number
Valid	2,451	2,339	2,298
Invalid	7,150	7,570	7,548
Undetermined	0	0	0
TOTAL	**9,601**	**9,909**	**10,334**

TABLE 11
Violation Levels for Allegations
2007, 2008 and 2009

Level	2007	2008	2009
"A"	140	97	80
Repeat "A"	4	0	0
"B"	30	21	28
Repeat "B"	0	0	0

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 older than one year 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 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.com. During the calendar year of 2009, the Registry received 43,965 calls, 4,166 e-mail inquiries, and 4,917 written inquiries, 181,773 visits on the public Website and 12,205 visits through the Web portal.

Certified Nurse Aide Training and Competency Test Results

While the Division of Long-Term Care's Training and Education Section monitors and approves the nurse aide training programs, the registry receives and publishes the test results.

Training programs for direct support persons (DSP) employed by intermediate care facilities for the developmentally disabled are approved and coordinated by the Illinois Department of Human Services, and the training information is published on the registry.

In facilities where clients are 22 years of age or younger, nursing assistants are called child care habilitation aides (HAB aides). Certification is achieved by successfully completing a Department-approved training program; no written competency test is required.

TABLE 12
Aide Registry Statistics, 2009

Active basic nursing assistant training programs	284
CNA competency testing	
Passed	18,862
Failed	1,037
No show	1,367
Total registered to test	21,266
DD aides added	5,457
HAB aides added	0
CNA verifications	
Phone	13,870
Written	4,183
E-mail	1,577
Total verifications	19,630
General inquiries	
Phone	29,825
Written	734
E-mail	2,589
Total verifications	33,148
Web site visits	xxxxxx
Total number of CNAs on the registry as of 12/31/2009	**158,208**
Total number of DD aides on the registry as of 12/31/2009	**71,536**

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, 2009

Administrative Findings	
Abuse	81
Neglect	4
Misappropriation of property	17
Total administrative findings	102

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.

Health care employers that the Department licenses are the following:

- community living facilities
- life care facilities
- long-term care facilities
- home health agencies, home services agencies or home nursing agencies
- 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 Illinois Department of Public Health as the requestor. The Department of Public Health is working on implementing this new amendment. The act gives the discretion to the director on implementing the new amendment to be 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, 2009

Background checks added to the registry	61,355
Waivers	
Granted	712
Denied	227
Total waivers processed	939
Waivers revoked	5

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

TABLE 15
Ten-Year Historical Waiver Statistics

Year	Granted		Denied		Revoked
2000	460	72%	175	28%	23
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

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.

* 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.

APPENDIX B

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 designee will review the findings which are the basis of the violation* and any comments and documentation provided by the facility to determine the level of the violation.*

b) The following definitions of levels of violations shall be used in determining the level of each violation:

1) A "level A violation" or "type A violation" is a violation of the act or these rules which create a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm will result there from.

2) A "level B violation" or "type B violation" is a violation of the act or these rules, which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident.

c) In determining the level of a violation, the director or his designee shall consider the following criteria:

1) The specific requirements of this part that have been violated.

2) The degree of danger to the resident or residents that is posed by the condition or occurrence in the facility.

3) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility.

* 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, 2009 through December 31, 2009

TRAINING	LOCATION HELD	DATES HELD	ATTENDEES
Fire Safety Evaluation System/Board & Care Training	Philadelphia, Pa.	February 24-26	1
Midwest Consortium Life Safety Code Conference	Kansas City, Mo.	March 4-5	5
Survey and Certification Leadership Summit	Baltimore, Md.	April 20-22	2
Learning Management System Training	Baltimore, Md.	April 21-23	1
Basic Intermediate Care Facilities/Mental Retardation Training	Baltimore, Md.	May 4-8	1
Fire Safety Evaluation System/Health Care Training	Dallas, Texas	May 19-21	1
Basic Long Term Care Training	Indianapolis, Ind.	June 22-26	3
Basic Life Safety Code Virtual Classroom Training	On-line course	June 15 thru July 30	1
Basic Intermediate Care Facilities/Mental Retardation Annual Focused Training	Baltimore, Md.	July 21-23	2
National Fire Protection Association 99 Training	Baltimore, Md.	July 28-30	1
ASPEN Training	Longmont, Colo.	August 17-18	1
AHFSA Conference	San Antonio, Texas	October 5-7	2
Nursing Home Infection Control Training	Baltimore, Md.	October 26-29	2

APPENDIX D

Administrative Rules Promulgated Under the Authority of the Nursing Home Care Act
[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)

APPENDIX E

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

Task 1	**Offsite Survey Preparation**
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.
Task 2	**Entrance Conference/Onsite Preparatory Activities**
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.
Task 3	**Initial Tour**
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.

Task 4	Sample Selection
1)	Final Phase I sample selection of case-mix stratified sample based on current facility census and guidelines established.
2)	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.
Task 5	**Information Gathering**
Subtask 5A	General observations of the facility's environment that may affect the resident's life, health and safety.
Subtask 5B	Assessment of the facility's food storage, preparation and service.
Subtask 5C	Perform an integrated, holistic assessment of the sampled residents.
Subtask 5D	Assessment 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.
Task 6	**Information Analysis for Deficiency Determination**
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.
Task 7	**Exit Conference**
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.

APPENDIX G

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

Illinois Compiled Statutes Citation	Offense	Additional Offense Added Effective
[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

Illinois Compiled Statutes Citation	Offense	Additional Offense Added Effective
[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

Illinois Compiled Statutes Citation	Offense	Additional Offense Added Effective
[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 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
[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

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

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