State of Illinois
Illinois Department of Public Health

Long-Term Care Annual Report to the Illinois General Assembly

August 2008

Illinois Department of PUBLIC HEALTH

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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, 2007, THROUGH DECEMBER 31, 2007

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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 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		
	2005	2006	2007
SNF Only	407	419	428
SNF/ICF	200	192	190
SNF/ICF/DD	1	1	1
SNF/ICF/SC	29	28	27
SNF/ICF/ICF-DD	1	1	1
SNF/SC	43	43	40
SNF/22 and Under	1	1	1
22 and Under Only	11	10	10
ICF Only	85	78	72
ICFDD Only	30	32	29
16 or Fewer Bed Only	260	263	262
ICF/ICFDD	0	0	0
ICF/SC	15	15	13
SC Only	52	52	51
CLF Only	29	28	28
Hospital-based LTC Units	59	54	53
Swing Beds	57	57	58
Supportive Residences	1	1	1
State Mental Health LTC Units	9	9	9
TOTAL FACILITIES	**1,290**	**1,284**	**1,275**

TABLE 2

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

Type of Facility	Number of Licensed and/or Certified LTC Beds		
	2005	2006	2007
SNF	79,081	79,537	79,960
ICF	26,344	25,104	28,879
ICFDD	10,135	10,281	10,098
22 and Under	1,023	921	979
CLF	412	396	396
SC	7,781	7,534	7,308
TOTAL BEDS	**124,766**	**123,773**	**122,620**

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 1,209 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 1,275 facilities in Illinois are regulated under the Illinois Nursing Home Care Act and/or federal certification requirements for Medicare/Medicaid participation. Of this number, 1,154 are licensed under the Nursing Home Care Act, and 121 are associated with a licensed hospital and are operated as a nursing home under the Hospital Licensing Act. A total of 1,166 (91.16%) of the 1,279 facilities participate in the federal certification program for Medicare and/or Medicaid. A central office staff in Springfield and approximately 199 surveyors headquartered in seven regional offices (Bellwood, Champaign, Edwardsville, Marion, Peoria, Rockford and West Chicago) conduct field survey activities for the 1,275 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 1,154 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.

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 18 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 Mental Health and Developmental Disabilities, 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 19,103 calls in 2007, which generated more than 5,366 long-term care complaints, with 2,922 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 **Education and Training Section** 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 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 Education and Training Section 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 2007, 10 new programs were approved and 23 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). Seventeen waivers were processed this year resulting in four approvals, six denials and six 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 (formerly known as the Nurse Aide Registry).

Both the Education and Training Section and the Division of Administrative Rules and Procedures also are involved in coordinating and assisting with training and maintaining administrative rules for other types of health care facilities and programs regulated by the Office of Health Care Regulation, such as 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 have historically 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, 2007, the Division of LTC Field Operations had 199 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 surveys are conducted within prescribed time limits.

(All long-term care surveys are reviewed to assure that annual surveys are conducted with a statewide average interval of 12 months. At least 10 percent of annual surveys must be initiated beyond business hours of 8 a.m. and 6 p.m. or on a weekend.)

Frequency 3. All mandated surveys are conducted within the time frames established by law.

(All surveys for intermediate care facilities/developmentally disabled facilities are conducted before expiration of a 12-month agreement.)

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.

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

Quality 2. Survey teams conduct surveys in accordance with CMS instructions.

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

Quality 4. Findings of non-compliance are identified and documented.

Quality 5. Immediate jeopardy is accurately identified.

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

Quality 6. 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 investigated within the prescribed time limits.

Quality 8. All complaints and those incidents requiring an onsite survey are investigated according to CMS instructions.

(The intake, investigation and processing procedures for complaints are reviewed.)

Quality 9. Data is entered accurately into the federal database systems.

(Select facility survey data is reviewed to determine data entry accuracy.)

Enforcement and Remedy 1. Immediate Jeopardy cases are processed timely.

Enforcement and Remedy 2. Enforcement processing time frames are followed.

(Review of cases to determine whether the SSA met the 23-day time frame for unresolved immediate jeopardy case. Provider notification of pending non-payment for newly admitted residents must be issued by the 70th day for an enforcement cycle.)

<u>Implementation of Federal Certification Enforcement Regulations</u>

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 within 45 days of the original survey at all other facilities, for deficiencies of actual harm or above if previously cited deficiencies are found uncorrected during a revisit.

Nurse Aide Training and Competency

Nursing assistants working in Skilled Nursing facilities, Intermediate Care facilities and Home Health Agencies must be certified. Certification is achieved by successfully completing a state-approved Basic Nurse Aide Training Program. The Illinois Department of Public Health contracts with Southern Illinois University Carbondale (SIUC) to administer the Nurse Aide testing program statewide. Those persons who have completed a Nurse Aide program must successfully complete a written competency test before seeking employment as a certified nurse aide.

Individuals whose names are on Health Care Worker Registry of other states or those who are student nurses may also meet the requirements upon Department review of qualifications and be placed on the registry.

Basic Nurse Aide training programs in Illinois are conducted through various sponsors.

Following is a breakdown of current sponsors for active nurse assistant training programs in the state:

Colleges	91	Hospitals	4
Vocational Schools	40	Private Business	34
High Schools	34	Home Health Agency	3
Nursing Homes	26		

In 2007, 21 new Basic Nurse Aide Training Programs were approved. Programs are periodically monitored for compliance by Department staff with the assistance of SIU-Carbondale staff. There were three monitoring visits conducted in 2007.

Persons working in facilities for the developmentally disabled must also meet requirements of programs coordinated by the Illinois Department of Human Services.

Persons working in facilities where clients are 22 years of age or younger are called child care habilitation aides and they must also complete a Department approved training program.

Administrative Rules governing the Nurse Aide Training program as well as the program curriculum have been revised and are currently in review by Department legal staff. The updated rules and curriculum will more adequately reflect current care modalities in the long-term care industry.

Department staff and members of a Certified Nurse Aide Career Ladder Development Committee continue to work in establishing an advanced curriculum for certified nurse aides, in order to promote professional development and expand the role of the nurse aide 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 2004, 2005, 2006 and 2007.

TABLE 3
Aide Abuse, Neglect and Misappropriation of Resident Property Findings
2004, 2005, 2006 and 2007

Allegation Type	2004	2005	2006	2007
Abuse (Total)	807	948	492	347
Physical	116	355	206	118
Verbal	88	327	195	117
Sexual	32	31	22	14
Mental	571	235	69	98
Neglect	36	81	39	30
Misappropriation of Property	36	33	33	36
CNA/Hab Aide cases Referred to IDPH Division of Legal Services	483	68	172	223
Cases Closed	253	33	107	157
Cases Processed	230	35	65	66

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 2004, 60 individuals had substantiated findings of physical abuse, four sexual abuses and one egregious neglect. In 2005, 47 individuals had substantiated findings of physical abuse posted on the Nurse Aide Registry as a result of this requirement. In 2006, 95 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.

In 2007, 160 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
2004, 2005, 2006 and 2007

Type	2004	2005	2006	2007
Annual Licensure/Certification Surveys/Follow-Up Surveys	5,524	5,659	5,875	6,015
Licensure/Certification Complaint Investigations/Follow-Up Investigations	7,089	6,667	6,454	7,046
Medicaid IOC Reviews (DD Only)	308	300	302	307
Licensure Probationary/Initial Surveys	29	52	63	62
Certification Initials	3	7	10	6
Incident Report Investigations	687	650	829	696
Special Surveys – Licensure/Bed Certification (Off-Cycle, After Hours)	80	178	223	357
TOTAL	**13,513**	**13,509**	**13,756**	**14,489**

Federal Survey Initiatives

The Centers for Medicare and Medicaid Services (CMS) goals for improvement of quality in skilled nursing settings in 2007 were to: reduce the rate of pressure ulcers and to reduce the usage of physical restraints. Illinois is below the national average and met the national and regional goals for restraint use. However, the rate of pressure ulcers remains a concern, and the rate of pressure ulcers in Illinois would have to decrease to meet federal and regional goals. The survey process continues to focus on restraints and pressure ulcers as pre-selected survey concerns.

The Quality Improvement Organization in Illinois, the Illinois Foundation for Quality Healthcare, offered several trainings in 2007 that the Department and providers were able to access. These trainings included:

Conference Calls and/or training IFQHC hosted in 2007	
Title	Date
Resident Directed Care-Medication Pass	January 11, 2007
Creating Champions: A Team Leader Approach to Quality Care	February 15, 2007
Falls Management	March 8, 2007
Innovation in Workplace Practice	April 19, 2007
Restraints: “A Discussion with IDPH”	May 15, 2007

Changing the Culture of Care Planning	June 14, 2007
Overview of Revisions to F-329 Unnecessary Drugs	July 19, 2007
The Importance of Mealtime Observation	August 23, 2007
Assessment & Treatment of Pain in People with Dementia	September 20, 2007
How the Surveyors use the QI/QM Reports & What You Need to Know	October 2nd & 7th 2007
Caring for Elders in Their Final Days: Maintaining Dignity & Comfort	October 11, 2007

In 2007, CMS began to add language in correspondence with providers emphasizing the importance of pressure ulcers and quality of care and increased enforcement efforts for continued noncompliance:

> Due to your facility's current noncompliance with F314, Pressure Ulcers, we would like to emphasize the importance of corrective actions that ensure that avoidable pressure ulcers will not occur at your facility and that residents will receive appropriate care and services to prevent the increase in complexity of existing pressure ulcers. The pain, infection rates, and increased morbidity and mortality associated with pressure ulcers underscore the need for your facility to improve its systems for identifying residents at risk and for implementing preventative services. We ask that you carefully monitor your facility's compliance with Federal requirements related to the prevention of pressure ulcer development. Please consider contacting the Quality Improvement Organization (QIO) in your state for information and training opportunities on pressure ulcer care and prevention. If noncompliance continues in this area, more severe remedies will be imposed.

The Illinois Department of Public Health began to work with the Illinois Foundation for Quality Healthcare to identify facilities that may need additional information and training opportunities.

CMS continues its "Special Focus Facilities" program for more frequent surveys of facilities with a history of serious quality issues. At the end of 2007, four Illinois facilities met in the Special Focus Facilities program.

Federal Oversight and Support Surveys, look behind surveys, and Life Safety Code Federal Monitoring Surveys performed by CMS continued in 2007.

The State Operations Manual (SOM), Appendix PP, "Guidance to Surveyors for Long Term Care Facilities was revised as follows:

New Tags: F373 (Paid Feeding Assistants)
Revised Tags: F323 (Accidents and Supervision)
Deleted Tags: F324

Appendix P of the SOM was also revised to reflect new procedures for Paid Feeding Assistants.

Initiatives Supported by Federal Civil Money Penalty Funds

Greater Illinois Chapter of the Alzheimer's Association: Funds will assist in providing scholarships for professional staff to apply to Alzheimer's Association fees for continuing education on dementia. The Train-the-Trainer program for the initial four hours of basic training for dementia care units also will be updated. The current grant is effective through June 30, 2008.

Illinois State Dental Society: The Illinois State Dental Society will continue to provide one-hour oral health care in-service training programs for long-term care staff. This grant period will be effective through September 30, 2010.

Life Services Network with Illinois Healthcare Association and the Illinois Council on Long Term Care: The BEST CARE program (Building Empowered Staff Teams and Creating Affirmative Relationships for Excellence) targets key components supporting workforce culture transformation in long term care organizations.

Guild for the Blind: Provides training programs for staff at long-term care facilities to improve communications and interactions with visually impaired residents and to address safety concerns specific to the visually impaired population.

Illinois Association of Long Term Care Ombudsman: Funds are directed toward further enhancement of the pioneer culture change initiative in Illinois.

Illinois Foundation for Quality Health Care: Provide leadership and continuous quality improvement training to elicit culture change.

Illinois State University, Mennonite College: Conducts a demonstration project to develop strategies aimed at recruitment and retention of registered nurses employed in Illinois nursing homes and improved quality of care and outcomes for Illinois nursing home residents.

In addition to these initiatives funded by civil monetary penalties, in SFY08, additional projects were funded through the Long-Term Care Quality Demonstration Grants Fund.

The Innovations in Long-Term Care Quality Grants Act, 30 ILCS 772 establishes the Innovations in Long-term Care Quality Demonstration Grants Fund with civil monetary penalties as the funding source. Applications must be reviewed, ranked and recommended by a commission in consultation with the medical school at University of Illinois Urbana-Champaign. The commission must be composed of members meeting specified criteria. Ranking criteria of the applications is directed toward:

1) improvement in direct care to residents;
2) increased efficiency through the use of technology;
3) improved quality of care through the use of technology;
4) increased access and delivery of service;
5) enhancement of nursing staff training;
6) effectiveness of the project as a demonstration; and ;

7) transferability of the project to other sites.

The director of Public Health is to award the grants based on the recommendations of the commission and after a thorough review of the compliance history of the long-term care facility.

Grants awarded during calendar year 2007 (SFY08) include:

Amount	Entity	Initiative
$44,925	Knox County Nursing Home	Development of accessible, purposeful and motivational walking path.
$50,000	Hitz Memorial Home	Renovation of nurse's station to reflect "home" by removing barriers and encouraging interaction.
$50,000	The Lincoln Home, Inc.	Development and implementation of a horticultural therapy program.
$50,000	Fountain View, Inc.	Implementation of lighting interventions known to decrease negative behaviors in residents.
$49,100	Presbyterian Homes	Create User Interface for patient centered care plans and evaluate the dissemination of this technological innovation.
$24,180	Kreider Services Inc	Provision of medical emergency response from within the group homes themselves and also for the community EMS volunteer system.
$50,000	Ballard Healthcare Organization	Provision of services within an environment of integrated socialization, vigorous personal growth and physical improvement activities.

Continued Focus on Abuse, Neglect and Theft in Nursing Homes

During 2007, 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 2007, the ISP/MFCU had a total of 12 convictions in LTC abuse, neglect and theft cases, six for resident

abuse and six for resident theft. 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 172 cases for patient abuse and 25 cases for theft. 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 2007 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 two fold. 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 2007, 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. IDPH 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. IDPH staff were 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 expired at a facility;

2) Residents named in Quality of Care deficiencies, who then are found to have expired within six months;

3) Residents whose care was the subject of a complaint or incident investigation by the Department.

Death Reporting Task Force

In 2007, the Death Reporting Task Force continued to pursue its established goals of mandated death reporting in long-term care facilities. The task force consists of representatives from the Department, Coroner's Association, Illinois State Police Medicaid Fraud Control Unit, and the Department on Aging. The six-month Death Reporting Pilot Project ran from July 1 through December 31, 2007. Participants in the six-month pilot project were the Champaign, Effingham, Kane, Kankakee, Lake, LaSalle, Lee, McLean, McHenry and Morgan county coroner's offices.

The participating county coroners reported 1,840 nursing home deaths for the six-month pilot project. The participating coroners also reported 11 suspicious deaths to the Department during the pilot project with 10 resulting in deficiencies being cited by the Department. Total complaints received by the Department for the participating counties were up 16 percent during the pilot project. The initial increase in these complaints is believed to be due to the heightened awareness and publicity initiated by the coroners reporting all deaths within nursing homes in their respective counties.

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 current and new residents. If the results of the background check are inconclusive, the facility is required to initiate a fingerprint-based check. In the event of a resident's poor 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, or has a 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 2007.

P.A. 094-0752 required that a criminal history analysis and report be conducted by the Department outside of the Office of Health Care Regulation. The Office of Health Care Regulation is responsible for ensuring that tracking and monitoring of identified offenders is done in long-term care facilities. All annual surveys include these duties, and complaint and incident investigations include 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.

A total of 278 total nursing facilities reported of 2,168 identified offenders, of which 139 are convicted or registered sex offenders.

Review of Construction/Renovation/Addition Plans

In 2007, 170 projects that resulted in additional beds, new facilities, upgrading of beds or other construction/renovation were approved, a decrease from 171 in 2005/2006. Two new facilities were licensed in 2007 for an additional 287 beds. Many of the projects required multiple on-site visits prior to initial acceptance of the buildings. Table 5 shows the number of projects approved during each month of 2007.

TABLE 5
Construction/Renovation/Additions*, and Upgrades Approved by Project Review Unit in 2007

Month	Number of Projects Approved
January	20
February	11
March	30
April	10
May	12
June	16
July	15
August	16
September	7

October	12
November	12
December	9
Total	**170**

* 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 fees, which have been collected by the Department since the fund's implementation in 1997, support the review process and have enabled the Department to hire additional staff. The difference between fees paid for reviews and the estimated amount required to support the process comes from the General Revenue Fund. The Long-Term Care Plan Review Unit, in conjunction with the Hospitals and Ambulatory Surgery Design Standards Unit, also conducted the required in-service training seminar for the health care industry.

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, 2007, to December 31, 2007, 946 drawing and item-by-item mechanical, plumbing, electrical and automatic sprinkler system reviews were completed. There also were 205 on-site reviews (surveys) and 110 interim surveys, most involving multiple staff. Many of the on-site reviews required two or more days to perform. More than half of the projects submitted during calendar year 2007 were not subject to a fee. The total amount of fees paid for reviews in calendar year 2007 was $364,270.

During 2007, 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

The education and training of LTC surveyors is an ongoing focus of the Division of Long-Term Care Field Operations. The division's training coordinator is responsible for the State Basic Surveyors Orientation Program (SBSOP), as well as the development of programs and presentations that keep survey staff informed of current standards, best practices and changes/revisions to the survey process.

The Centers for Medicare and Medicaid Services (CMS) require staff to attend a state orientation program for newly employed health facility surveyors. This program is divided into four parts:

- General principles, which outline the surveyor's role and responsibilities, indoctrination to standards and the survey/certification process, confidentiality, resident rights, techniques of oral communication, basic data-collecting skills and documentation of findings;

- Survey methods, which outline techniques and approaches to surveying standards for administration, medical direction, nursing, resident management, resident assessment and care planning, dietary services, pharmacy, restorative services, activities, therapies, fire safety and disaster planning;

- Field experience, which emphasizes the process of surveying and practices application of general principles and survey methods; and

- Regional office overview, which explains the federal-state relationship in Title VIII and Title XIX programs, requirements for common Medicare/Medicaid standards and procedures, organization and role of CMS in the survey and certification programs, the role and relation of the regional office and the state agency, and other selected topics, including federal oversight and state agency quality improvement activities.

For newly employed surveyors, the SBSOP and the regional preceptor program provide an organized body of knowledge of government and non-government accreditation programs. As part of SPSOP, participants receive self-instructional training manuals and regulations and complete work assignments. The assignments familiarize surveyors with the regulation and provide them with a study guide in preparation for the Surveyor Minimum Qualifications Test (SMQT), which is mandated for all long-term care surveyors.

In addition to the didactic portion of the program, surveyors also receive field training and experience under preceptor supervision and instruction. The CMS preceptor manual is an integral part of surveyor orientation. Participants learn to identify the presence or absence of quality resident care in the long-term care facility and to demonstrate expected competencies related to the survey process.

In 2007, two three-week SBSOP sessions were held, and new long-term care surveyors were provided an overview of the federal and state requirements for nursing homes to assist them in surveying for compliance and in successfully passing the SMQT. Topics covered were State Operations Manual; Appendices P, PP, Q; Survey Tasks 1-7; Chapter 5; Surveyor Guidance for Activities; psychosocial Outcome; Medical Director; Quality Assessment Assurance; Pressure Ulcers; Adequate Supervision; Restraints; LSC Survey Process; Principles of Documentation and Investigation; Immediate Jeopardy; FOSS Surveys; SMQT; Documentation of Deficiencies; Infection Control; Pharmacy; Environmental and Nutritional Issues; Enforcement; MDS; Administrative Hearing Process; Culture Change; Administrative Rules; Abuse, Neglect and Theft; Aspen/Acts Usage; Food Service Sanitation; CNA Issues; Nurse Aide Training; Nurse Aide Registry; Health Care Worker Background Checks; Subpart S and Subpart U of the Skilled Nursing and Intermediate Care Facilities Code 77 Ill. Adm. Code 300).

Eight new surveyors attended the SBSOP and Federal Basic Orientation in 2007. All eight successfully 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/clients in the long-term care setting.

In addition to training new employees, the Division of Long-Term Field Operations provided quarterly training sessions during supervisor's meetings attended by Central Office and Regional Office supervisory staff. The supervisors then shared the materials with all their survey and review staff.

Training program topics provided during the 2007 LTC supervisor's meetings included; Division Updates, State Agency Performance Results, Immediate Jeopardy Cities, Elopements, Aspen, GPRA Goals, Foss and Comparative Survey Results, Survey Guidance on Restorative Nursing, Electronic Records, Immunizations, New Licensure Survey Process, A Holistic Approach to Pressure Ulcer Care, Field Safety for Public Health Professionals, Asbestos Hazards, Special Investigations, Dental In-Service, Restrains and Falls, Respiratory Services in Long Term Care, Team Building, Subpart S, Health Care Worker Registry Update, Hospice Services, Medication Administration-The New Alternative, Family Medical Leave Act Update, Survey Protocol for Vaccinations, U.S. Attorney's Office and Long Term Care, F323 New CMS Guidelines, Infection Control Update, Culture Change and the Medication Pass, Resident Trust Funds, F373-Paid Feeding Assistant and Review of CMS's Survey and Certification Policy Letters pertaining to Long-Term Care.

This year, Long-Term Care Field Operations, in conjunction with the three Health Care Associations, provided training for providers and IDPH Long-Term Care staff. A total of 13 sessions were held statewide. The first set of training sessions covered the new federal standards for F323-Accidents and Supervision, and the second set of sessions covered Immediate Jeopardy situations and how they related to different federal regulations for nursing facilities.

All Regional and Central Office Long-Term Care staff completed training on the new federal requirement, F373-Paid Feeding Assistant, as required by CMS. In addition, all staff also were trained on F329 Unnecessary Medications and Pharmacy Updates.

During 2007, CMS required all LTC surveyors and managers to verify their viewing of mandated satellite broadcasts and Web-based trainings. These included:

1. From Institutional to Individualized Care Part II: Transforming Systems to Achieve Better Clinical Outcomes

2. From Institutional to Individualized Care Part III: Clinical Case Studies in Culture Change

3. Physical Restraint Use in Nursing Homes: The Exception Not the Rule, Part 1

4. From Institutional to Individualized Care Part IV: The How of Change

In addition, CMS offered other 2007 satellite and Web-based training. Such training with staff participation included:

1. How To Be An Effective Team

2. Being An Effective Witness

3. How To Enhance The Quality Of Dining Assistance In Nursing Homes

4. Improving Nursing Home Quality And Payment

5. Physical Restraint Use In Nursing Homes: The Exception Not The Rule, Part 2

6. Physical Restraint Use In Nursing Homes: The Exception Not The Rule, Part 3

The Division of Long-Term Care Field Operations also provided continuing education opportunities for staff of all disciplines through various outside training programs. Central and Regional Office staff attended the following: Wound Care Symposium, Specialized Wound Management, Forensic Nursing, TRIAD Conference, Anderson Pest Control Conference, Illinois Food Safety Symposium, Alzheimer's Association Seminar, ADA Annual Conference, Pioneer Summit Conference, Illinois Environmental Health Association Annual Conference, Annual Pest Solutions Seminar, Bug World and Brain Fitness.

Information regarding 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 Division. Providers must recognize regulatory expectations and implement systems to provide quality care and services for the residents they serve.

Summary of Fire Situations

Illinois Department of Public Health received 58 life safety incident reports from long-term care facilities in 2007. There were no reported resident or staff deaths; one staff injury was reported. A staff person was treated for fractures.

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.

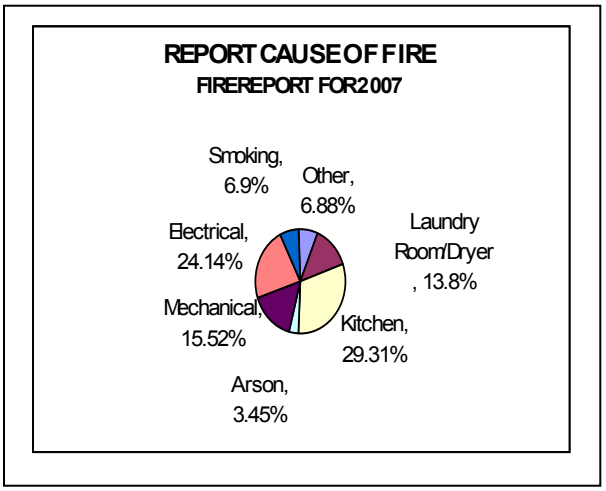


Figure 1

The three major causes of fire were kitchen-related with 17 incidents, 14 electrical related incidents and nine mechanical incidents. The number of arson incidents remained at two from the previous year. In both cases, residents were identified as being the perpetrator. This supports the importance of: (a) resident assessment and subsequent planning of care; (b) provision of supervision; (c) maintenance of smoke and fire detection systems; (d) maintenance of fire extinguishment systems; and (e) fire drills as part of staff education to ensure familiarity with procedures to be followed in emergency situations (Figure 1).

Kitchen-related incidents occurred during food preparation. The incidents deemed to be electrical included a wide range of equipment from lighting fixtures to kitchen equipment. Eight fires occurring in the laundry room were mainly attributed to dryer contents overheating or equipment malfunction. These causes support the need for staff education and preventative maintenance programs for both cooking and laundry equipment and electrical systems.

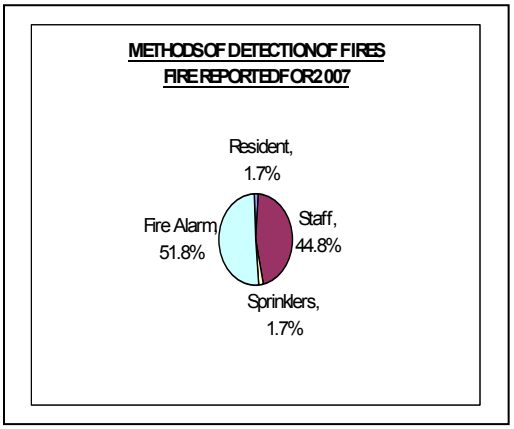


Figure 2

There were four reports of careless use of smoking materials. Enforcement of facility smoking polices, and identification of potential problem smokers, along with enforcement of oxygen administration Regulations, are important.

The facility's fire alarm system was responsible for detecting more than 50 percent of the incidents (30 of 58). This illustrated the importance of properly maintaining and testing fire alarm systems. The second most successful means of detection was staff (26 of 58). This demonstrates the importance of trained staff (Figure 2).

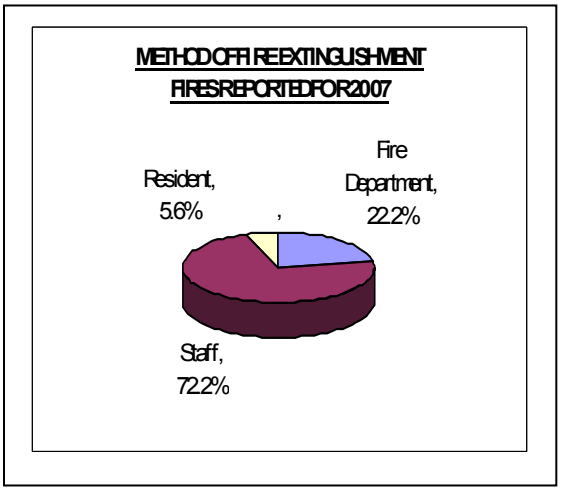
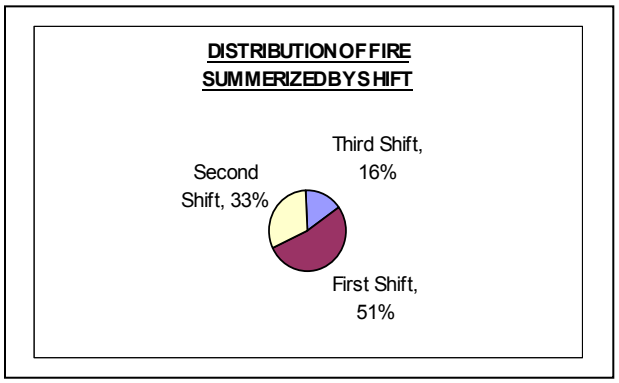


Figure 3

Staff continued to be an important part of fire extinguishment. Staff members were credited with extinguishing 13 fires. Fire department were credited with extinguishing four fires, one was extinguished by a resident (Figure 3).



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 (30 of 58) occurred during first shift. The distribution of fires among these shifts is shown in Figure 4. The greatest number of incidents occurred between the hours of 8 a.m. and 9 a.m., when seven (7) occurred. The second highest number occurred between 9 a.m. and 10 a.m., when six (6) occurred. The specific hourly periods of occurrence are shown in Figure 5.

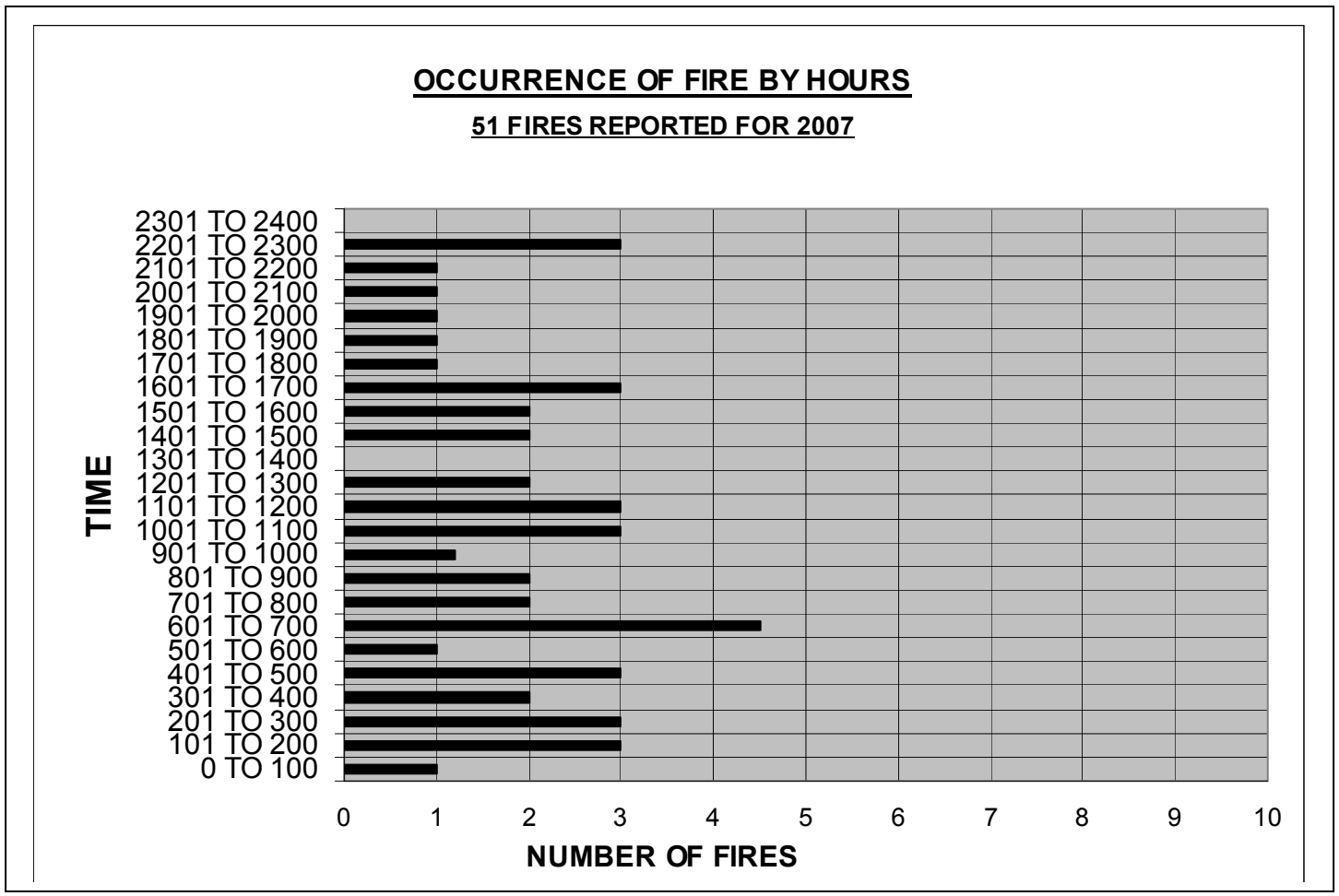


Figure 5

Through the Department's enforcement of Life Safety Code Standards, particularly early detection, extinguishment systems, staff education, and effective maintenance programs, the severity of fires in nursing homes in the state remains at a minimal level.

Developmental Disabilities Section

During 2007, 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, to neglect, including facility failure to provide goods and services to meet the needs of persons served.

A growing concern in the DD Section is the number of 16-bed facilities with deficient practice in health care services, especially given the aging population as a whole in the 16-bed homes. Issues ranged from lack of nursing care in accordance with individualized needs to staff failure to recognize injuries that, in some cases, resulted in death.

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. One state-operated facility was decertified.

Training during 2007 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. Supervisors spent more time in the field training individual staff and teams. Increased oversight, direction and feedback of report writing were provided to surveyors during 2007. Provider training was implemented with excellent feedback and requests for more.

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. Other training will be provided in areas of surveyor need as necessary. Provider training will be focused on abuse and neglect investigations and other clarifications as needed. Increased communication with other state agencies providing DD services also will 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 2007, the Department issued 724 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
2007 License Renewal Information

Month	1 Year	2 Year	TOTAL
January	5	46	51
February	8	31	39
March	12	43	55
April	18	41	59
May	18	66	84
June	13	45	58
July	18	52	70
August	17	49	66
September	13	48	61
October	20	37	57
November	22	43	65
December	13	46	59
TOTALS	**177**	**547**	**724**

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 2007, skilled care beds increased by 705 beds, intermediate care beds decreased by 838 beds, sheltered care beds decreased by 23, ICF/DD beds increased by 3 beds, and SK/under Age 22 increased by 50 beds.

Facilities with Changes in Licensure

	2005	2006	2007
Change in Ownership/Operation	73	73	54
Facility Closure	18	8	8
Licensed Beds Decrease	20	39	30
Licensed Beds Increase/Upgrade	55	46	41
Name Changes	13	10	12

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*
2005, 2006 and 2007

Violation Level	Date		
	2005	2006	2007
“A” Violation	110	177	177
Repeat “A” Violation	0	3	2
“B” Violation	46	156	96
Repeat “B” Violation	0	1	7

* 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
2005, 2006 and 2007

Type of Action	Date		
	2005	2006	2007
Conditional License	111	167	158
Revocation or Denial of License	0	5	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 2007, the Department imposed $3.6 million in licensure fines against facilities and collected $907,669 as compared to $765,000 collected in 2006, $413,400 collected in 2005 and $185,000 collected in 2004. The amount collected would not necessarily be from those fines imposed in 2007, 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.

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.

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 LTC 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. 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 for 2007 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. The Department is currently working with the Coroner's Association to address the issue of reporting all nursing home deaths to the local coroner or medical examiner. The Death Reporting Task Force has been established and is setting up a pilot project to demonstrate the positive effect and support of mandated reporting. This would provide yet another level of observation to detect unreported cases of abuse and neglect. The Department is discussing this reporting as a new licensing rule.

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. 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 1/1/07 to 12/31/07 - $2,250,897
- Medicaid Only Facilities
  Calendar Year 1/1/07 to 12/31/07 - $84,225
  Total CMPs collected: $2,335,122

  *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 must meet specific requirements, including an understanding of the Nursing Home Care Act and federal 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 seven facilities in 2007 and continued monitoring 11 other facilities from 2006. Fifteen of these 18 facilities are licensed and certified to provide intermediate and/or skilled care services, while the other three are licensed and certified to provide for the developmentally disabled. 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 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 issues.

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

Unlicensed Long-Term Care Facilities

The 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.

In 2007, there were 37 complaints of locations operating as unlicensed long-term care facilities. Two unlicensed homes closed after investigation by the Department and subsequent action taken by the Attorney General's Office.

Administrative Rules

In 2007 the long-term care codes saw less amendment activity than in previous years. Only twice did they get amended.

On April 3, 2007, amendments to all five long-term care codes (the Skilled Nursing and Intermediate Care Facilities Code – 77 Ill. Adm. Code 300; the Sheltered Care Facilities Code – 77 Ill. Adm. Code 330; the Illinois Veterans' Homes Code – 77 Ill. Adm. Code 340; the Intermediate Care for the Developmentally Disabled Facilities Code – 77 Ill. Adm. Code 350; and the Long-Term Care for Under Age 22 Facilities Code – 77 Ill. Adm. Code 390) implemented Public Act 94-0752, the second amendment to the Nursing Home Care Act [210 ILCS 45] to address the presence of "identified offenders" in long-term care facilities. PA 94-0752 revised much of the original language from PA 94-0163, and also exempted facilities regulated by Part 390 from the requirements for supervising identified offenders. Thus, in the April 3 amendments all of the regulations governing the supervision of identified offenders that had been added to Part 390 as a result of PA 94-0163 were repealed, while the other four Parts received updates consistent with the requirements of PA 94-0752.

On June 6, 2007, the Department adopted amendments to all five codes that strengthened the ability of residents and their families to form family councils. The Residents' Advisory Council Sections in each Part specify the requirements to which facilities must adhere regarding residents' advisory councils and maintaining relationships with the local community, including the establishment of family councils. The amendments required facilities to provide information regarding family councils to all prospective residents and their families, and to ensure that family councils have a place to meet.

Currently, the Office of Health Care Regulation is drafting amendments to all five parts that will revise requirements for long-term care facilities in reporting incidents and accidents. The rulemaking will clarify the specific situations that will require a facility to report an incident or accident to the Department. These amendments will be proposed in 2008.

Finally, extensive amendments in 2007 to the Health Care Worker Background Check Act [225 ILCS 46] will affect nearly all the health care categories regulated by the Department, including long-term care. Public Act 95-0120, effective August 13, 2007, removed references to UCIA criminal history records checks from the Health Care Worker Background Check Act and provided for electronic fingerprint-based criminal history records checks as a condition of employment with health care employers and active status on the Health Care Worker Registry. PA 95-0120 also made changes in provisions concerning definitions, exceptions, ineligibility for employment, waivers, application fees, health care employer files, and immunity from liability.

PART IV CENTRAL COMPLAINT REGISTRY

Table 9 describes allegations made to the Central Complaint Registry (CCR) in 2004, 2005, 2006 and 2007.

TABLE 9
CCR Contacts
2004, 2005, 2006 and 2007

Type	2004	2005	2006	2007
Total Calls	19,160	18,000	19,103	22,209
Total LTC Complaints	5,122	4,816	5,303	5,714
Total LTC Incident Reports	***411	***383	***380	***523
Reports of LTC Abuse and Neglect	2,858 (1,852)**	2,798 (1,918)**	2,922 (2,037)**	3,197 (2,202)**
Physical Abuse	183	157	163	130
Sexual Abuse	87	64	88	74
Verbal Abuse	61	28	29	26
Neglect	1,072	1,283	1,377	1,616
Mental Abuse	264	204	190	177
Other Resident Injury	1,006	880	895	955
Sexual Assault – Resident to Resident	69	71	60	60
Verbal Assault	6	5	3	4
Physical Assault – Resident to Resident	67	67	81	81
Mental Assault – Resident to Resident	43	39	36	34

**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
2005, 2006 and 2007

	2005	2006	2007
Allegations	Number	Number	Number
Valid	2,063	2,335	2,451
Invalid	6,501	6,473	7,150
Undetermined	0	0	0
TOTAL	8,564	8,808	9,601

TABLE 11
Violation Levels for Allegations
2005, 2006 and 2007

Level	2005	2006	2007
"A"	109	165	140
Repeat "A"	0	3	4
"B"	51	49	30
Repeat "B"	0	0	0

PART V HEALTH CARE WORKER BACKGROUND CHECK ACT

The Health Care Worker Registry (formerly known as the Nurse Aide Registry) is organized under the Division of Administrative Rules and Procedures. The principal responsibilities of the Health Care Worker Registry (Registry) are to provide information to the health care employers in the state of Illinois about a health care worker's Certified Nurse Aide (CNA) training and competency test results; 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 a waiver. The registry supports a Web site, has a help desk call center and answers e-mail inquiries. A health care worker will not appear on the registry unless he or she has a criminal background 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 living quarters or the financial, medical, or personal records of residents. For the facility to hire the individual the background check must not be more than a year old and must not have disqualifying convictions unless 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 Web site at www.idph.state.il.us/nar or by calling the registry at 217-785-5133. During the calendar year of 2007, the registry received 31,153 calls, 2,985 e-mail inquiries, 4,355 written inquiries and 156,759 visits on the public Web site.

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 nursing assistants employed by intermediate care facilities for the developmentally disabled (DD Aides) are coordinated by the Illinois Department of Human Services, and the training information is published on the registry. DD aides are not required to complete written competency testing.

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, 2007

Active basic nursing assistant training programs	261	
CNA competency testing		
Passed	23,421	
Failed	738	
No Show	1,184	
Total registered to test	25,343	
DD aides added	5,051	
HAB aides added		1
CNA verifications		
Phone	7,770	
Written	3,766	
E-mail	677	
Total verifications	12,213	
General inquiries		
Phone	23,383	
Written	589	
E-mail	2,308	
Total verifications	26,280	
Web site visits	156,759	

Total number of CNAs on the registry as of 12/31/2007* 110,269

*****Please note that during the year 2006 inactive CNAs were removed from the registry. This accounts for the large difference between the total CNAs on the registry between 2005 and 2006.

Total number of DD Aides on the registry as of 12/31/2007 61,914

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 which have a final order of abuse, neglect or theft are published on the registry.

TABLE 13
Administrative Findings Statistics, 2007

Administrative findings

Abuse	114
Neglect	8
Misappropriation of property	38
Total administrative findings	160

Background Checks and Disqualifying Convictions

The Health Care Worker Background Check Act (Act) required all direct care employees hired prior to January 1, 2007, to have a name-based criminal history record check. Beginning on January 1, 2007, each long-term care facility operating in the state was required to initiate a criminal history record check for all non-licensed employees hired on or after January 1, 2007, with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents. If the name-based background check indicates a conviction of one or more of the offenses enumerated in Section 25 of the act, the individual could not be employed from the time that the employer receive the results of the background check until the time that the individual receives a waiver. Section 40 of the act allows "the entity responsible for licensing, inspecting, certifying, or registering the health care employer" to grant waivers.

Health care employers that the Department licenses are the following:

- community living facilities
- life care facilities
- long-term care facilities
- home health agencies, home nursing agencies and home services agencies
- comprehensive hospices
- subacute care facilities
- post-surgical recovery care facilities
- children's community-based health care facilities
- 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.

The first step in the waiver application process is to request a fingerprint-based criminal history records check. This may be done on a fingerprint card with ink and roll but livescan fingerprinting produces quicker results and allows results to be easily double checked in case of questions.

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 to implement this new amendment.

TABLE 14
Background Checks and Waiver Statistics, 2007

Background checks added to the registry	77,155
Waivers	
Granted	494
Denied	219
Total waivers processed	713
Waivers revoked	5

Revocation of a waiver can occur in two ways. First, if an individual has an abuse/neglect/theft finding placed on the registry, the Department revokes the individual's waiver. Second, all criminal history records checks received by the Department are compared to an individual's waiver. If an individual has disqualifying convictions after the date of the waiver, the waiver is revoked.

TABLE 15
Ten Year Historical Waiver Statistics

Year	Granted		Denied		Revoked
1998	505	74%	175	26%	7
1999	526	79%	138	21%	11
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

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 creates 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.

APPENDIX C

Long-Term Care Federal Training
January 1, 2007 through December 31, 2007

TRAINING	LOCATION HELD	DATES HELD	ATTENDEES
Basic Long-Term Care	Baltimore, Md.	January 8-12	4
Basic Life Safety Code	Dallas, Texas	January 22-26	1
National Fire Protection	Albuquerque, N.M.	March 20-22	2
Intermediate Care Facilities/Mental Retardation Annual Focused	Nashville, Tenn.	March 20-22	3
Survey and Certification Leadership Summit	Baltimore, Md.	April 23-26	2
Basic Intermediate Care Facilities/Mental Retardation	Sacramento, Calif.	May 14-18	1
National Quality Improvement and Evaluation System Conference	Baltimore, Md.	June 26-28	3
Basic Long-Term Care	Providence, R.I.	July 23-27	8
Fire Safety Evaluation System/Health Care	Providence, R.I.	July 17-19	3
Association of Health Facility Agencies Annual Conference	Providence, R.I.	September 30-October 3	2
Fire Safety Evaluation System/Health Care	Albany, N.Y.	December 4-6	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 Veteran's 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 Veteran's 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 conduct 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 facility 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 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**
1)	General observations of the facility's environment that may affect the resident's life, health and safety.
2)	Assessment of the facility's food storage, preparation and service.
3)	Perform an integrated, holistic assessment of the sampled residents.
4)	Assessment of residents' quality of life.
5)	Observe medication pass and assess the provision of pharmacy services.
6)	Assess the facility's Quality Assessment and Assurance program.
7)	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

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:_____/_____/ 2007__ 060104

APPENDIX H

Disqualifying Convictions in Accordance with the Health Care Worker Background Check Act [225 ILCS 46]

Illinois Criminal Code [720 ILCS 5]

*	8-1.1	Solicitation of Murder
*	8-1.2	Solicitation of Murder for Hire
	9-1	First Degree Murder
	9-1.2	Intentional Homicide of an Unborn Child
	9-2	Second Degree Murder
	9-2.1	Voluntary Manslaughter of an Unborn Child
	9-3	Involuntary Manslaughter and Reckless Homicide
	9-3.1	Concealment of Homicidal Death
	9-3.2	Involuntary Manslaughter and Reckless Homicide of an Unborn Child
	9-3.3	Drug Induced Homicide
	10-1	Kidnapping
	10-2	Aggravated Kidnapping
	10-3	Unlawful Restraint
	10-3.1	Aggravated Unlawful Restraint
	10-4	Forcible Detention
	10-5	Child Abduction
	10-7	Aiding and Abetting Child Abduction
*	11-6	Indecent Solicitation of a Child
*	11-9.1	Sexual Exploitation of a Child
***	11-9.5	Sexual Misconduct with a Person with a Disability
*	11-19-2	Exploitation of a Child
*	11-20.1	Child Pornography
	12-1	Assault
	12-2	Aggravated Assault
	12-3	Battery
	12-3.1	Battery of an Unborn Child
	12-3.2	Domestic Battery
**	12-3.3	Aggravated Domestic Battery
	12-4	Aggravated Battery
*	12-4.1	Heinous Battery

	12-4.2	Aggravated Battery With a Firearm
**	12-4.2-5	Aggravated Battery With a Machine Gun, or a Firearm Equipped with a Silencer
	12-4.3	Aggravated Battery of a Child
	12-4.4	Aggravated Battery of an Unborn Child
*	12-4.5	Tampering with Food, Drugs or Cosmetics
	12-4.6	Aggravated Battery of a Senior Citizen
	12-4.7	Drug Induced Infliction of Great Bodily Harm
*	12-7.4	Aggravated Stalking
*	12-11	Home Invasion
	12-13	Criminal Sexual Assault
	12-14	Aggravated Criminal Sexual Assault
	12-14.1	Predatory Criminal Sexual Assault of a Child
	12-15	Criminal Sexual Abuse
	12-16	Aggravated Criminal Sexual Abuse
	12-19	Abuse/Gross Neglect of a LTC Facility Resident
	12-21	Criminal Neglect of an Elderly/Disabled Person
*	12-21.6	Endangering the Life or Health of a Child (23-2354)
*	12-32	Ritual Mutilation
*	12-33	Ritual Abuse of a Child
	16-1	Theft
	16-1.3	Financial Exploitation of an Elderly/Disabled Person
**	16-2	Theft of Mislaid Property
	16A-3	Offense of Retail Theft
**	16G-15	Financial Identity Theft
**	16G-20	Aggravated Financial Identity Theft
*	17-3	Forgery
	18-1	Robbery
	18-2	Armed Robbery
*	18-3	Vehicular Hijacking
*	18-4	Aggravated Vehicular Hijacking
*	18-5	Aggravated Robbery
	19-1	Burglary
	19-3	Residential Burglary
	19-4	Criminal Trespass to Residence

	20-1	Arson
	20-1.1	Aggravated Arson
**	20-1.2	Residential Arson
	24-1	Unlawful Use of a Weapon
**	24-1.1	Unlawful Use of a Weapon by a Felon
	24-1.2	Aggravated Discharge of a Firearm
**	24-1.2-5	Aggravated Discharge of a Machine Gun
**	24-1.2-6	Aggravated Unlawful Use of a Weapon
**	24-3.2	Unlawful Discharge of Firearm Projectiles
**	24-3.3	Unlawful Sale or Delivery of Firearms on the Premises of any School
*	25-1.5	Reckless Discharge of a Firearm
	33A-2	Armed Violence

Nursing and Advanced Practice Nursing Act [225 ILCS 65]

**	10-5	Practice of Nursing Without a License

Criminal Jurisprudence Act [720 ILCS 115]

	53	

Wrongs to Children Act [720 ILCS 150]

	4	
**	5.1	

Illinois Credit Card and Debit Card Act [720 ILCS 250]

**	4	Receiving Stolen Credit Cards or Debit Cards
**	5	Receiving a Credit or Debit Card with Intent to Use, Sell or Transfer
**	6	Selling or Buying a Credit Card
**	8	Using a Credit or Debit Card With the Intent to Defraud
**	17.02	Altering an Electronic Transmission With the Intent to Defraud

Cannabis Control Act [720 ILCS 550]

	5	Manufacture, Delivery or Possession With Intent to Deliver/Manufacture
	5.1	Cannabis Trafficking
*	5.2	Delivery of Cannabis on School Grounds
*	7	Delivery to Person Under 18
	9	Calculated Criminal Cannabis Conspiracy

Illinois Controlled Substances Act [720 ILCS 570]

401	Manufacture of Controlled/Counterfeit Substance Controlled Substance Analog
401.1	Controlled Substance Trafficking
404	Look-alike Substances
405	Calculated Criminal Drug Conspiracy
405.1	Element of the Offense
407	Delivery to a Person Under 18/Violations at School, Public Housing, Public Park
407.1	Employing Person Under 18 to Delivery Substance.

***** **a disqualifying offense as of 1-1-1998**
****** **a disqualifying offense as of 1-1-2004**
*** **a disqualifying offense as of 7-24-06**

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)

APPENDIX J

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