

## Illinois NPDA Consumer Bulletin

### About the Illinois Home Health, Home Services, and Home Nursing Agency Licensing Act

#### **How does this new legislation affect the way I hire a caregiver for my family member?**

The Illinois Home Health, Home Services and Home Nursing Agency Licensing Act establishes clear safeguards that attempt to provide three stages of protection related to the hiring and use of in-home care. It completely changes the landscape of homecare services in Illinois, which – historically - was completely unregulated. For the consumer, this is very good news. Why?

1. The law puts in place legal requirements and minimum standards to ensure that the quality of patient/client care is consistently maintained by licensed agencies.
2. The law aims to protect both skilled and unskilled in-home workers as “employees” of licensed agencies by providing them with more defined legal recourse and workers’ compensation for on-the-job injury.
3. The law serves as a guideline to help those with fiduciary responsibility make in-home hiring choices that protect the personal well-being and financial interests of the client or loved one while also effectively minimizing the legal and financial risks to the fiduciary associated with the hiring of unqualified, unlicensed caregivers.
4. In essence, this licensing statute forces the client (or client’s family member) and the contracted agency to have a conversation about who’s who in the relationship and each entity’s respective roles and accountability.

As with all consumer protection legislation, great laws are only effective if they are followed and enforced. For example:

- ✓ It simply is not enough to ask the right questions without also conducting your own extensive due diligence.
  - An agency can say it is licensed when, in reality, it only carries a general business license that it purchased for \$125.
  - An agency can say it is bonded, but in the context of estates, is it bonded at the mandated one and- a-half times the estate’s value?
  - An agency can say it is insured when it might only carry auto insurance.

Even with this new licensing law, many well-meaning individuals, including trusted professionals, may encourage you to hire a caregiver independently rather than going through a licensed agency to “save the client some money.” Perhaps you might turn to a long-time neighbor. You need to ask: have you become the person’s legal employer — taking out withholding, paying social security and other employment taxes, paying workers’ compensation — while ensuring their legal U.S. status and completing a criminal background check?

- ✓ Even if you have covered all of your bases with regard to legitimate and accountable employment status, you still need to be diligent on investigating the actual qualifications, or lack thereof, of the individual to whom you are entrusting such care.
- ✓ Are the dollars you might save up front really worth the high-stakes risk of not working with a credible, licensed provider of home health, home services and home nursing care?