

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Regulatory Sunset Act is amended by changing Section 4.18 and by adding Section 4.28 as follows:

(5 ILCS 80/4.18)

Sec. 4.18. Acts repealed January 1, 2008 and December 31, 2008.

(a) The following Acts are repealed on January 1, 2008:

The Acupuncture Practice Act.

The Clinical Social Work and Social Work Practice Act.

~~The Home Medical Equipment and Services Provider License Act.~~

The Nursing and Advanced Practice Nursing Act.

The Illinois Speech-Language Pathology and Audiology Practice Act.

~~The Marriage and Family Therapy Licensing Act.~~

~~The Nursing Home Administrators Licensing and Disciplinary Act.~~

The Pharmacy Practice Act of 1987.

~~The Physician Assistant Practice Act of 1987.~~

The Podiatric Medical Practice Act of 1987.

The Structural Pest Control Act.

(b) The following Acts are repealed on December 31, 2008:

The Medical Practice Act of 1987.

The Environmental Health Practitioner Licensing Act.

(Source: P.A. 94-754, eff. 5-10-06; 94-1075, eff. 12-29-06; 94-1085, eff. 1-19-07; revised 1-22-07.)

(5 ILCS 80/4.28 new)

Sec. 4.28. Acts repealed on January 1, 2018. The following Acts are repealed on January 1, 2018:

The Home Medical Equipment and Services Provider License Act.

The Marriage and Family Therapy Licensing Act.

The Nursing Home Administrators Licensing and Disciplinary Act.

The Physician Assistant Practice Act of 1987.

Section 10. The Home Medical Equipment and Services Provider License Act is amended by changing Sections 10, 20, 25, 65, 75, 80, 85, 90, 95, 110, 115, 120, 125, 130, 135, and 145 as follows:

(225 ILCS 51/10)

(Section scheduled to be repealed on January 1, 2008)

Sec. 10. Definitions. As used in this Act:

(1) "Department" means the Department of Financial and Professional Regulation.

(2) "Secretary" ~~"Director"~~ means the Secretary ~~Director~~ of Financial and Professional Regulation.

(3) "Board" means the Home Medical Equipment and Services Board.

(4) "Home medical equipment and services provider" or "provider" means a legal entity, as defined by State law, engaged in the business of providing home medical equipment and services, whether directly or through a contractual arrangement, to an unrelated sick or disabled individual where that individual resides.

(5) "Home medical equipment and services" means the delivery, installation, maintenance, replacement, or instruction in the use of medical equipment used by a sick or disabled individual to allow the individual to be maintained in his or her residence.

(6) "Home medical equipment" means technologically sophisticated medical devices, apparatuses, machines, or other similar articles bearing a label that states "Caution: federal law requires dispensing by or on the order of a physician.", which are usable in a home care setting, including but not limited to:

(A) oxygen and oxygen delivery systems;

(B) ventilators;

(C) respiratory disease management devices, excluding compressor driven nebulizers;

(D) wheelchair seating systems;

- (E) apnea monitors;
- (F) transcutaneous electrical nerve stimulator (TENS) units;
- (G) low air-loss cutaneous pressure management devices;
- (H) sequential compression devices;
- (I) neonatal home phototherapy devices;
- (J) enteral feeding pumps; and
- (K) other similar equipment as defined by the Board.

"Home medical equipment" also includes hospital beds and electronic and computer-driven wheelchairs, excluding scooters.

(7) "Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/20)

(Section scheduled to be repealed on January 1, 2008)

Sec. 20. Powers and duties of the Department.

(a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensure Acts and shall exercise other powers and duties necessary for effectuating the purposes of this Act.

(b) The Department may adopt rules to administer and enforce this Act, including but not limited to fees for original licensure and renewal and restoration of licenses, and may prescribe forms to be issued to implement this Act. At a minimum, the rules adopted by the Department shall include standards and criteria for licensure and for professional conduct and discipline. The Department shall consult with the Board in adopting rules. Notice of proposed rulemaking shall be transmitted to the Board, and the Department shall review the Board's response and any recommendations made in the response. The Department shall notify the Board in writing with proper explanation of deviations from the Board's recommendations and response.

(c) The Department may at any time seek the advice and expert knowledge of the Board on any matter relating to the administration of this Act.

(d) (Blank). ~~The Department shall issue a quarterly report to the Board of the status of all complaints related to the profession and filed with the Department.~~

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/25)

(Section scheduled to be repealed on January 1, 2008)

Sec. 25. Home Medical Equipment and Services Board. The Secretary ~~Director~~ shall appoint a Home Medical Equipment and Services Board, in consultation with a state association representing the home medical equipment and services industry, to serve in an advisory capacity to the Secretary ~~Director~~. The Board shall consist of 7 members. Four members shall be home medical equipment and services provider representatives, ~~2 of whom represent businesses grossing less than \$500,000 per year in revenues, 2 of whom represent businesses grossing \$500,000 or more per year in revenues, and at least one of whom shall also be a pharmacy-based provider.~~ The 3 remaining members shall include one home care clinical specialist, one respiratory care practitioner, and one public member ~~consumer of home medical equipment and services.~~

Members shall serve 4 year terms and until their successors are appointed and qualified, ~~except that of the initial appointments, the consumer member shall be appointed to serve for one year, 2 members shall be appointed to serve for 2 years, 3 members shall be appointed to serve for 3 years, and one member who is a home medical equipment and services provider representative shall be appointed to serve for 4 years, and until their successors are appointed and qualified.~~ No member shall be reappointed to the Board for a term that would cause continuous service on the Board to exceed 8 years.

Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term.

The home medical equipment and services provider representatives appointed to the Board shall have engaged in the provision of home medical equipment and services or related home care services for at least 3 years prior to their appointment, shall be currently engaged in providing home medical equipment and services in the State of Illinois, and must have no record of convictions related to fraud or abuse under either State or federal law.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

The Board shall annually elect one of its members as chairperson and vice chairperson.

Members of the Board shall receive as compensation a reasonable sum as determined by the Secretary ~~Director~~ for each day actually engaged in the duties of the office, and shall be reimbursed for authorized expenses incurred in performing the duties of the office.

The Secretary ~~Director~~ may terminate the appointment of any member for cause which in the opinion of the Secretary ~~Director~~ reasonably justifies the termination.

~~Through consultation with members of a state association for the home medical equipment and services industry, the Board may recommend to the Department rules that specify the medical~~

~~equipment to be included under this Act, that set standards for the licensure, professional conduct, and discipline of entities that provide home medical equipment and services, and that govern the safety and quality of home medical equipment and services. The Director shall consider the recommendations of the Board.~~

Members of the Board shall be immune from suit in an action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

A majority of Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the rights of a quorum to exercise the rights and perform all of the duties of the Board.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/65)

(Section scheduled to be repealed on January 1, 2008)

Sec. 65. Fees; returned checks. An entity who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the entity that fees and fines shall be paid to the Department by



certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the entity has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application without a hearing. If the entity seeks a license after termination or denial, the entity shall apply to the Department for restoration or issuance of the license and pay all fees and fines owed to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing that application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary ~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-146, eff. 1-1-02.)

(225 ILCS 51/75)

(Section scheduled to be repealed on January 1, 2008)

Sec. 75. Refused issuance, suspension, or revocation of license. The Department may refuse to issue, renew, or restore a license, or may revoke, suspend, place on probation, reprimand, impose a fine not to exceed \$10,000 ~~\$1,000~~ for each violation, or take other disciplinary or non-disciplinary action as the Department may deem proper with regard to a licensee for any one or combination of the following reasons:

- (1) Making a material misstatement in furnishing

information to the Department.

(2) Violation ~~Negligent or intentional disregard~~ of this Act or its rules.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any a crime that is a felony under the laws of the United States or any state or territory thereof ~~that is a felony~~ or a misdemeanor, an essential element of which is dishonesty, ~~or conviction of a crime~~ that is directly related to the practice of the profession ~~provision of home medical equipment and services~~.

(4) Making a misrepresentation to obtain licensure or to violate a provision of this Act.

(5) Gross negligence in practice under this Act.

(6) Engaging in a pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(7) Aiding, assisting, or willingly permitting another person in violating any provision of this Act or its rules.

(8) Failing, within 30 ~~60~~ days, to provide information in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(10) Discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially

equivalent to one set forth in this Act.

(11) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for any services not actually or personally rendered.

(12) A finding that the licensee, after having its license placed on probationary status, has violated the terms of probation.

(13) Willfully making or filing false records or reports in the course of providing home medical equipment and services, including but not limited to false records or reports filed with State agencies or departments.

(14) Solicitation of business services, other than according to permitted advertising.

(15) The use of any words, abbreviations, figures, or letters with the intention of indicating practice as a home medical equipment and services provider without a license issued under this Act.

(16) Failure to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(17) Failure to comply with federal or State laws and regulations concerning home medical equipment and services

providers.

(18) Solicitation of professional services using false or misleading advertising.

(19) Failure to display a license in accordance with Section 45.

(20) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in the inability to practice with reasonable judgment, skill, or safety.

(21) Physical illness, mental illness, or disability, including without limitation deterioration through the aging process and loss of motor skill, that results in the inability to practice the profession with reasonable judgment, skill, or safety.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/80)

(Section scheduled to be repealed on January 1, 2008)

Sec. 80. Cease and desist order.

(a) If any entity violates a provision of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may

preliminarily and permanently enjoin the violation, and if it is established that the entity has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If an entity holds itself out as a provider of home medical equipment and services without a license issued under this Act, an interested party or any person injured thereby, in addition to the Secretary ~~Director~~, may petition for relief as provided in subsection (a) of this Section.

(c) Whenever in the opinion of the Department an entity violates a provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against the entity. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/85)

(Section scheduled to be repealed on January 1, 2008)

Sec. 85. Unlicensed practice; civil penalty.

(a) An entity who practices, offers to practice, attempts

to practice, or holds itself out to practice as a home medical equipment and services provider without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee. The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and executed in the same manner as any judgment from any court of record.

(b) The Department may investigate any unlicensed activity.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/90)

(Section scheduled to be repealed on January 1, 2008)

Sec. 90. Inspections ~~Mandatory inspections~~. The Department may ~~shall~~ inspect a licensee for compliance with the requirements of this Act and ~~within 3 years after the date of initial licensure and at least once every 3 years thereafter,~~ unless the licensee can demonstrate proof of renewal of accreditation with a recognized national accrediting body. ~~The Department shall~~ conduct random inspections upon renewal of a

~~license, for cause or as necessary to assure the integrity and effectiveness of the licensing process. Upon failure to pass inspection, a provider's license shall be suspended or denied as applicable, pending review by the Board. The Department may authorize qualified individuals to conduct inspections. The Department shall set by rule, and pay to an inspector, a fee for each inspection. An entity that fails to pass an inspection is subject to penalties under Section 80. Upon notice of failure to pass an inspection, a provider shall have 30 days to appeal the inspection results. On appeal, a provider shall have the right to an inspection review or to a new inspection in accordance with procedures adopted by the Department. A home medical equipment and services provider licensed within 2 years after the effective date of this Act is exempt from the inspection requirements of this Section during that 2-year period.~~

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/95)

(Section scheduled to be repealed on January 1, 2008)

Sec. 95. Investigations; notice and hearing.

(a) The Department may investigate the actions of an applicant or of an entity holding or claiming to hold a license.

(b) The Department shall, before refusing to issue or renew a license or disciplining a licensee, at least 30 days prior to

the date set for the hearing, notify in writing the applicant or licensee of the nature of the charges and that a hearing will be held on the date designated. The Department shall direct the applicant or licensee to file a written answer to the Board under oath within 20 days after the service of the notice and inform the applicant or licensee that failure to file an answer will result in default being taken against the applicant or licensee and that the license may be suspended, revoked, placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature, or extent of business, as the Secretary ~~Director~~ may deem proper. Written notice may be served by personal delivery or certified or registered mail to the applicant or licensee ~~respondent~~ at his or her ~~the~~ address of record ~~the entity's last notification to the Department~~. If the entity fails to file an answer after receiving notice, the entity's license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action it deems proper, including limiting the scope, nature, or extent of the entity's business, or imposing a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. At the time and place fixed in the notice, the Board shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence, and argument as may be pertinent to the



charges or to their defense. The Board may continue a hearing from time to time.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/110)

(Section scheduled to be repealed on January 1, 2008)

Sec. 110. Findings and recommendations. At the conclusion of the hearing the Board shall present to the Secretary ~~Director~~ a written report of its findings and recommendations. The report shall contain a finding of whether or not the accused entity violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary ~~Director~~.

The report of findings and recommendations of the Board may ~~shall~~ be the basis for the Department's order of refusal or for the granting of licensure unless the Secretary ~~Director~~ shall determine that the Board's report is contrary to the manifest weight of the evidence, in which case the Secretary ~~Director~~ may issue an order in contravention of the Board's report. The finding is not admissible in evidence against the entity in a criminal prosecution brought for the violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for the violation of this Act.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/115)

(Section scheduled to be repealed on January 1, 2008)

Sec. 115. Rehearing on motion. In a case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for the rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing the motion, or if a motion for rehearing is denied, then upon such denial the Secretary ~~Director~~ may enter an order in accordance with recommendations of the Board except as provided in Section 120 of this Act. ~~If the respondent shall order from the reporting service and pay for a transcript of the record with the time for filing a motion for rehearing, the 20 day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.~~

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/120)

(Section scheduled to be repealed on January 1, 2008)

Sec. 120. Rehearing on order of Secretary ~~Director~~. Whenever the Secretary ~~Director~~ is satisfied that substantial

justice has not been done in the revocation or suspension of a license or refusal to issue or renew a license, the Secretary ~~Director~~ may order a rehearing by the same or another Board.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/125)

(Section scheduled to be repealed on January 1, 2008)

Sec. 125. Hearing officer. The Secretary ~~Director~~ has the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in an action for refusal to issue or renew a license, or for the discipline of a licensee. The Secretary ~~Director~~ shall notify the Board of an appointment. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings and recommendations to the Board and the Secretary ~~Director~~. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law and recommendation to the Secretary ~~Director~~. If the Board fails to present its report within the 60 day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after the request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days after such order. If the Board fails to issue its findings of fact,

conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order. If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within the 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners ~~the Director shall issue an order based on the report of the hearing officer.~~ If the Secretary ~~Director~~ determines that the Board's report is contrary to the manifest weight of the evidence, he or she may issue an order in contravention of the Board's report.

(Source: P.A. 90-532, eff. 11-14-97.)

(Section scheduled to be repealed on January 1, 2008)

Sec. 130. Order or certified copy. An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, shall be prima facie proof that:

(1) the signature is the genuine signature of the Secretary ~~Director~~;

(2) the Secretary ~~Director~~ is duly appointed and qualified; and

(3) the Board and its members are qualified to act.

This proof may be rebutted.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/135)

(Section scheduled to be repealed on January 1, 2008)

Sec. 135. Restoration of license. At any time after the suspension or revocation of a license, the Department may restore the license to the accused entity upon the written recommendation of the Board unless, after an investigation and a hearing, the Board determines that restoration is not in the public interest. Restoration under this Section requires the filing of all applications and payment of all fees required by the Department.

(Source: P.A. 90-532, eff. 11-14-97.)

(225 ILCS 51/145)

(Section scheduled to be repealed on January 1, 2008)

Sec. 145. Temporary suspension of a license. The Secretary ~~Director~~ may temporarily suspend the license of a home medical equipment and services provider without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 95 of this Act, if the Secretary ~~Director~~ finds that evidence in his or her possession indicates that the home medical equipment and services provider's continuation in business would constitute an imminent danger to the public. If the Secretary ~~Director~~ temporarily suspends the license of a home medical equipment and services provider without a hearing, a hearing by the Board must be held within 30 days of the suspension.

(Source: P.A. 90-532, eff. 11-14-97.)

Section 15. The Marriage and Family Therapy Licensing Act is amended by changing Sections 10, 25, 30, 60, 85, 90, 95, 105, 110, 115, 120, 125, 130, and 145 and by adding Section 91 as follows:

(225 ILCS 55/10) (from Ch. 111, par. 8351-10)

(Section scheduled to be repealed on January 1, 2008)

Sec. 10. Definitions. As used in this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure

maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

"Advertise" means, but is not limited to, issuing or causing to be distributed any card, sign or device to any person; or causing, permitting or allowing any sign or marking on or in any building, structure, newspaper, magazine or directory, or on radio or television; or advertising by any other means designed to secure public attention.

"Approved program" means an approved comprehensive program of study in marriage and family therapy in a regionally accredited educational institution approved by the Department for the training of marriage and family therapists.

"Associate licensed marriage and family therapist" means a person to whom an associate marriage and family therapist license has been issued under this Act.

"Board" means the Illinois Marriage and Family Therapy Licensing and Disciplinary Board.

"Department" means the Department of Financial and Professional Regulation.

~~"Director" means the Director of the Department of Professional Regulation.~~

"License" means that which is required to practice marriage and family therapy under this Act, the qualifications for which include specific education, acceptable experience and

examination requirements.

"Licensed marriage and family therapist" means a person to whom a marriage and family therapist license has been issued under this Act.

"Marriage and family therapy" means the evaluation and treatment of mental and emotional problems within the context of human relationships. Marriage and family therapy involves the use of psychotherapeutic methods to ameliorate interpersonal and intrapersonal conflict and to modify perceptions, beliefs and behavior in areas of human life that include, but are not limited to, premarriage, marriage, sexuality, family, divorce adjustment, and parenting.

"Person" means any individual, firm, corporation, partnership, organization, or body politic.

"Practice of marriage and family therapy" means the rendering of marriage and family therapy services to individuals, couples, and families as defined in this Section, either singly or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Title or description" means to hold oneself out as a licensed marriage and family therapist or an associate licensed marriage and family therapist to the public by means of stating on signs, mailboxes, address plates, stationery,



announcements, calling cards or other instruments of professional identification.

(Source: P.A. 91-362, eff. 1-1-00.)

(225 ILCS 55/25) (from Ch. 111, par. 8351-25)

(Section scheduled to be repealed on January 1, 2008)

Sec. 25. Marriage and Family Therapy Licensing and Disciplinary Board.

(a) There is established within the Department the Marriage and Family Therapy Licensing and Disciplinary Board to be appointed by the Secretary ~~Director~~. The Board shall be composed of 7 persons who shall serve in an advisory capacity to the Secretary ~~Director~~. The Board shall elect a chairperson and a vice chairperson.

(b) In appointing members of the Board, the Secretary ~~Director~~ shall give due consideration to recommendations by members of the profession of marriage and family therapy and by the statewide organizations solely representing the interests of marriage and family therapists.

(c) Five members of the Board shall be marriage and family therapists who have been in active practice for at least 5 years immediately preceding their appointment, or engaged in the education and training of masters, doctoral, or post-doctoral students of marriage and family therapy, or engaged in marriage and family therapy research. Each marriage or family therapy teacher or researcher shall have spent the

majority of the time devoted to the study or research of marriage and family therapy during the 2 years immediately preceding his or her appointment to the Board. The appointees shall be licensed under this Act.

(d) Two members shall be representatives of the general public who have no direct affiliation or work experience with the practice of marriage and family therapy and who clearly represent consumer interests.

(e) Board members shall be appointed for terms of 4 years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Board member whom he or she shall succeed. Upon the expiration of this term of office, a Board member shall continue to serve until a successor is appointed and qualified. No member shall be reappointed to the Board for a term that would cause continuous service on the Board to be longer than 8 years.

(f) The membership of the Board shall reasonably reflect representation from the various geographic areas of the State.

(g) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

(h) The Secretary ~~Director~~ may remove any member of the Board for any cause that, in the opinion of the Secretary ~~Director~~, reasonably justifies termination.

(i) The Secretary ~~Director~~ may consider the recommendations of the Board on questions of standards of

professional conduct, discipline, and qualification of candidates or licensees under this Act.

(j) The members of the Board shall be reimbursed for all legitimate, necessary, and authorized expenses.

(k) A majority of the Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 55/30) (from Ch. 111, par. 8351-30)

(Section scheduled to be repealed on January 1, 2008)

Sec. 30. Application.

(a) Applications for original licensure shall be made to the Department in writing on forms prescribed by the Department and shall be accompanied by the appropriate documentation and the required fee, which fee is nonrefundable. Any application shall require such information as, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for licensing.

(b) Applicants have 3 years from the date of application to complete the application process. If the application has not been completed within 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(c) A license shall not be denied to an applicant because

of the applicant's race, religion, creed, national origin, political beliefs or activities, age, sex, sexual orientation, or physical disability that does not affect a person's ability to practice with reasonable judgment, skill, or safety impairment.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 55/60) (from Ch. 111, par. 8351-60)

(Section scheduled to be repealed on January 1, 2008)

Sec. 60. Payments; penalty for insufficient funds. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of

the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary ~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-146, eff. 1-1-02.)

(225 ILCS 55/85) (from Ch. 111, par. 8351-85)

(Section scheduled to be repealed on January 1, 2008)

Sec. 85. Refusal, revocation, or suspension.

(a) The Department may refuse to issue or renew, or may revoke a license, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 ~~\$1000~~ for each violation, with regard to any licensee for any one or combination of the following causes:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act or its rules.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that ~~is (i) a felony, (ii) a misdemeanor, of which an essential element of which is dishonesty, or (iii) a crime that is~~

directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining a license or violating any provision of this Act or its rules.

(5) Professional incompetence ~~or gross negligence~~.

(6) Gross negligence ~~Malpractice~~.

(7) Aiding or assisting another person in violating any provision of this Act or its rules.

(8) Failing, within 30 ~~60~~ days, to provide information in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public as defined by the rules of the Department, or violating the rules of professional conduct adopted by the Board and published by the Department.

(10) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in the inability to practice with reasonable judgment, skill, or safety.

(11) Discipline by another state, territory, or country if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership or association any fee, commission, rebate, or other form of compensation

for any professional services not actually or personally rendered.

(13) A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(14) Abandonment of a patient without cause.

(15) Willfully making or filing false records or reports relating to a licensee's practice, including but not limited to false records filed with State agencies or departments.

(16) Wilfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) Physical illness or mental illness or impairment ~~disability~~, including, but not limited to, deterioration through the aging process, or loss of motor skill ~~abilities~~ ~~and skills~~ that results in the inability to practice the profession with reasonable judgment, skill, or safety.

(19) Solicitation of professional services by using false or misleading advertising.

(20) A finding that licensure has been applied for or obtained by fraudulent means.

(21) Practicing or attempting to practice under a name other than the full name as shown on the license or any other legally authorized name.

(22) Gross overcharging for professional services including filing statements for collection of fees or moneys for which services are not rendered.

(b) The Department shall deny any application for a license, ~~without hearing,~~ or renewal, without hearing, under this Act to any person who has defaulted on an educational loan guaranteed by the Illinois Student Assistance Commission; however, the Department may issue a license or renewal if the person in default has established a satisfactory repayment record as determined by the Illinois Student Assistance Commission.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. The suspension will terminate only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient, and upon the recommendation of the Board to the Secretary ~~Director~~ that the licensee be allowed to resume his or her practice as a licensed marriage and family therapist or



an associate marriage and family therapist.

(d) The Department may refuse to issue or may suspend the license of any person who fails to file a return, pay the tax, penalty, or interest shown in a filed return or pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until the time the requirements of the tax Act are satisfied.

(e) In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to

submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary ~~Director~~ for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary ~~Director~~ immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 ~~15~~ days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations

safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(Source: P.A. 90-61, eff. 12-30-97; 91-362, eff. 1-1-00.)

(225 ILCS 55/90) (from Ch. 111, par. 8351-90)

(Section scheduled to be repealed on January 1, 2008)

Sec. 90. Violations; injunctions; cease and desist order.

(a) If any person violates a provision of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person practices as a marriage and family therapist or an associate marriage and family therapist or

holds himself or herself out as such without having a valid license under this Act, then any licensee, any interested party or any person injured thereby may, in addition to the Secretary Director, petition for relief as provided in subsection (a) of this Section.

(c) Whenever in the opinion of the Department any person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him or her. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

(Source: P.A. 90-61, eff. 12-30-97; 91-362, eff. 1-1-00.)

(225 ILCS 55/91 new)

Sec. 91. Unlicensed practice; violation; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a licensed marriage and family therapist without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense, as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the

provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department may investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(225 ILCS 55/95) (from Ch. 111, par. 8351-95)

(Section scheduled to be repealed on January 1, 2008)

Sec. 95. Investigation; notice and hearing. The Department may investigate the actions or qualifications of any person or persons holding or claiming to hold a license. Before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license, at least 30 days before the date set for the hearing, the Department shall (i) notify the accused in writing of any charges made and the time and place for a hearing on the charges before the Board, (ii) direct him or her to file a written answer to the charges with the Board under oath within 20 days after the service on him or her of such notice, and (iii) inform him or her that if he or she fails to file an answer, default will be taken against him or her and his or her license may be suspended, revoked, placed on

probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may deem proper. In case the person, after receiving notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. Written ~~This written notice and any notice in the subsequent proceedings~~ may be served by personal delivery ~~to the accused person,~~ or by registered or certified mail to the applicant or licensee at his or her last address of record with ~~address last specified by the accused in his last notification to~~ the Department. In case the person fails to file an answer after receiving notice, his or her license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. The written answer shall be served by personal delivery, certified delivery, or certified or registered mail to the Department. At the time and

place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence, and argument as may be pertinent to the charges or to the defense thereto. The Department may continue such hearing from time to time. At the discretion of the Secretary ~~Director~~ after having first received the recommendation of the Board, the accused person's license may be suspended or revoked, if the evidence constitutes sufficient grounds for such action under this Act.

(Source: P.A. 90-61, eff. 12-30-97; 90-655, eff. 7-30-98.)

(225 ILCS 55/105) (from Ch. 111, par. 8351-105)

(Section scheduled to be repealed on January 1, 2008)

Sec. 105. Subpoenas; oaths; attendance of witnesses. The Department has the power to subpoena and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

The Secretary ~~Director~~, the designated hearing officer, and every member of the Board has power to administer oaths to witnesses at any hearing that the Department is authorized to conduct and any other oaths authorized in any Act administered by the Department. Any circuit court may, upon application of the Department or its designee, or of the applicant or licensee against whom proceedings under this Act are pending, enter an

order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

(Source: P.A. 87-783; 87-1237.)

(225 ILCS 55/110) (from Ch. 111, par. 8351-110)

(Section scheduled to be repealed on January 1, 2008)

Sec. 110. Recommendations for disciplinary action. At the conclusion of the hearing, the Board shall present to the Secretary ~~Director~~ a written report of its findings and recommendations. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary ~~Director~~.

The report of findings and recommendations of the Board shall be the basis for the Department's order for refusal or for the granting of a license, or for any disciplinary action, unless the Secretary ~~Director~~ shall determine that the Board's report is contrary to the manifest weight of the evidence, in which case the Secretary ~~Director~~ may issue an order in contravention of the Board's report. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the



hearing and finding are not a bar to a criminal prosecution brought for the violation of this Act.

(Source: P.A. 87-783.)

(225 ILCS 55/115) (from Ch. 111, par. 8351-115)

(Section scheduled to be repealed on January 1, 2008)

Sec. 115. Rehearing. In any hearing involving disciplinary action against a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after service, the respondent may present to the Department a motion in writing for a rehearing that shall specify the particular grounds for rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing a motion, or if a motion for rehearing is denied, then upon denial, the Secretary ~~Director~~ may enter an order in accordance with recommendations of the Board, except as provided in this Act. If the respondent orders from the reporting service, and pays for, a transcript of the record within the time for filing a motion for rehearing, the 20 calendar day period within which a motion may be filed shall commence upon the delivery of the transcript to the respondent.

(Source: P.A. 87-783; 87-1237; 88-45.)

(225 ILCS 55/120) (from Ch. 111, par. 8351-120)

(Section scheduled to be repealed on January 1, 2008)

Sec. 120. Hearing by other hearing officer ~~examiner~~. Whenever the Secretary ~~Director~~ is not satisfied that substantial justice has been done in the revocation, suspension or refusal to issue or renew a license, the Secretary ~~Director~~ may order a rehearing by the same or other hearing officer ~~examiners~~.

(Source: P.A. 87-783.)

(225 ILCS 55/125) (from Ch. 111, par. 8351-125)

(Section scheduled to be repealed on January 1, 2008)

Sec. 125. Appointment of a hearing officer. The Secretary ~~Director~~ has the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license, or to discipline a licensee. The hearing officer has full authority to conduct the hearing. The hearing officer shall report his findings and recommendations to the Board and the Secretary ~~Director~~. The Board has 60 calendar days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law and recommendations to the Secretary ~~Director~~. If the Board fails to present its report within the 60 calendar day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after the request, issue an order directing the Board to

issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days after such order. If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order. If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within the 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners ~~the Director may issue an order based on the report of the hearing officer.~~ If the Secretary ~~Director~~ disagrees with the recommendation of the Board or the hearing officer, the Secretary ~~Director~~ may issue an order in contravention of the recommendation.

(Source: P.A. 87-783; 87-1237.)

(225 ILCS 55/130) (from Ch. 111, par. 8351-130)

(Section scheduled to be repealed on January 1, 2008)

Sec. 130. Order; certified copy. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, shall be prima facie proof:

(a) that the signature is the genuine signature of the Secretary ~~Director~~;

(b) that the Secretary ~~Director~~ is duly appointed and qualified; and

(c) that the Board and its members are qualified to act.

(Source: P.A. 87-783.)

(225 ILCS 55/145) (from Ch. 111, par. 8351-145)

(Section scheduled to be repealed on January 1, 2008)

Sec. 145. Summary suspension. The Secretary ~~Director~~ may summarily suspend the license of a marriage and family therapist or an associate marriage and family therapist without a hearing, simultaneously with the institution of proceedings for a hearing provided for in this Act, if the Secretary ~~Director~~ finds that evidence in his or her possession indicates that a marriage and family therapist's or associate marriage and family therapist's continuation in practice would constitute an imminent danger to the public. In the event that

the Secretary ~~Director~~ summarily suspends the license of a marriage and family therapist or an associate marriage and family therapist without a hearing, a hearing by the Board must be held within 30 calendar days after the suspension has occurred.

(Source: P.A. 91-362, eff. 1-1-00.)

Section 20. The Nursing Home Administrators Licensing and Disciplinary Act is amended by changing Sections 4, 5, 5.1, 6, 10.5, 11, 13, 15, 17, 18, 19, 20, 20.1, 21, 22, 24, 24.1, 26, and 28 as follows:

(225 ILCS 70/4) (from Ch. 111, par. 3654)

(Section scheduled to be repealed on January 1, 2008)

Sec. 4. Definitions. For purposes of this Act, the following definitions shall have the following meanings, except where the context requires otherwise:

(1) "Act" means the Nursing Home Administrators Licensing and Disciplinary Act.

(2) "Department" means the Department of Financial and Professional Regulation.

(3) "Secretary" ~~"Director"~~ means the Secretary ~~Director~~ of Financial and Professional Regulation.

(4) "Board" means the Nursing Home Administrators Licensing and Disciplinary Board appointed by the Governor.

(5) "Nursing home administrator" means the individual licensed under this Act and directly responsible for planning, organizing, directing and supervising the operation of a nursing home, or who in fact performs such functions, whether or not such functions are delegated to one or more other persons.

(6) "Nursing home" or "facility" means any entity that is required to be licensed by the Department of Public Health under the Nursing Home Care Act, as amended, other than a sheltered care home as defined thereunder, and includes private homes, institutions, buildings, residences, or other places, whether operated for profit or not, irrespective of the names attributed to them, county homes for the infirm and chronically ill operated pursuant to the County Nursing Home Act, as amended, and any similar institutions operated by a political subdivision of the State of Illinois that provide, though their ownership or management, maintenance, personal care, and nursing for 3 or more persons, not related to the owner by blood or marriage, or any similar facilities in which maintenance is provided to 3 or more persons who by reason of illness of physical infirmity require personal care and nursing.

(7) "Maintenance" means food, shelter and laundry.

(8) "Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs, or general supervision of the physical and mental well-being

of an individual who because of age, physical, or mental disability, emotion or behavior disorder, or mental retardation is incapable of managing his or her person, whether or not a guardian has been appointed for such individual. For the purposes of this Act, this definition does not include the professional services of a nurse.

(9) "Nursing" means professional nursing or practical nursing, as those terms are defined in the Nursing and Advanced Practice Nursing Act, for sick or infirm persons who are under the care and supervision of licensed physicians or dentists.

(10) "Disciplinary action" means revocation, suspension, probation, supervision, reprimand, required education, fines or any other action taken by the Department against a person holding a license.

(11) "Impaired" means the inability to practice with reasonable skill and safety due to physical or mental disabilities as evidenced by a written determination or written consent based on clinical evidence including deterioration through the aging process or loss of motor skill, or abuse of drugs or alcohol, of sufficient degree to diminish a person's ability to administer a nursing home.

(12) "Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the

Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

(Source: P.A. 90-61, eff. 12-30-97; 90-742, eff. 8-13-98.)

(225 ILCS 70/5) (from Ch. 111, par. 3655)

(Section scheduled to be repealed on January 1, 2008)

Sec. 5. Board.

(a) There is hereby created the Nursing Home Administrators Licensing and Disciplinary Board. The Board shall consist of 7 ~~9~~ members appointed by the Governor. All shall be residents of the State of Illinois. Two ~~Three~~ members shall be representatives of the general public. Five ~~Six~~ members shall be nursing home administrators who for at least 5 years prior to their appointments were licensed under this Act. The public members shall have no responsibility for management or formation of policy of, nor any financial interest in, nursing homes as defined in this Act, nor any other connection with the profession. In appointing licensed nursing home administrators, the Governor shall take into consideration the recommendations of the nursing home professional associations.

(b) Members shall be appointed for a term of 4 years by the Governor. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the Board may be removed



by the Governor for cause. Each member shall serve on the Board until his or her successor is appointed and qualified. No member of the Board shall serve more than 2 consecutive 4 year terms.

In making appointments the Governor shall attempt to insure that the various geographic regions of the State of Illinois are properly represented.

(c) The Board shall annually elect one of its members as chairperson and one as vice chairperson. No officer shall be elected more than twice in succession to the same office. Each officer shall serve until his or her successor has been elected and qualified.

(d) A majority of the Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(e) Each member and member-officer of the Board may ~~shall~~ receive a per diem stipend as the Secretary ~~Director~~ shall determine. Each member shall be paid their necessary expenses while engaged in the performance of his or her duties.

(f) (Blank).

(g) (Blank).

(h) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(i) (Blank).

(j) The Secretary ~~Director~~ shall give due consideration to all recommendations of the Board. If the Secretary ~~Director~~ disagrees with or takes action contrary to the recommendation of the Board, he or she shall provide the Board with a written and specific explanation of his or her action.

(Source: P.A. 89-507, eff. 7-1-97; 90-61, eff. 12-30-97.)

(225 ILCS 70/5.1)

(Section scheduled to be repealed on January 1, 2008)

Sec. 5.1. Powers and duties; rules. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for administration of licensing acts and shall exercise such other powers and duties necessary for effectuating the purposes of this Act. The Department shall adopt rules to implement, interpret, or make specific the provisions and purposes of this Act and may prescribe forms that shall be issued in connection with rulemaking. The Department shall transmit the proposed rulemaking to the Board.

The Department may solicit the advice of the Board on any matter relating to the administration and enforcement of this Act.

~~The Director shall employ, in conformity with the Personnel Code, professional, technical, investigative, and clerical help on a full-time or part-time basis as necessary for the proper performance of its duties.~~

Upon the written request of the Department, the Department of Public Health, the Department of Human Services or the Department of State Police may cooperate and assist in any investigation undertaken by the Board.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/6) (from Ch. 111, par. 3656)

(Section scheduled to be repealed on January 1, 2008)

Sec. 6. Application procedure. Applications for original licenses shall be made to the Department in writing on forms prescribed by the Department and shall be accompanied by the required fee, which shall not be refundable. The application shall require information as in the judgment of the Department will enable the Department to pass on the qualifications of the applicant for a license.

Applicants have 3 years after the date of application to complete the application process. If the process has not been completed in 3 years, the application shall be denied, the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/10.5)

(Section scheduled to be repealed on January 1, 2008)

Sec. 10.5. Unlicensed practice; violation; civil penalty.

(a) Any person who practices, offers to practice, attempts

to practice, or holds oneself out to practice as a nursing home administrator without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department has the authority and power to investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(Source: P.A. 89-474, eff. 6-18-96.)

(225 ILCS 70/11) (from Ch. 111, par. 3661)

(Section scheduled to be repealed on January 1, 2008)

Sec. 11. Expiration; renewal; continuing education. The expiration date and renewal period for each license issued under this Act shall be set by rule.

Each licensee shall provide proof of having obtained 36 hours of continuing education in the 2 year period preceding the renewal date of the license as a condition of license

renewal. The continuing education requirement may be waived in part or in whole for such good cause as may be determined by rule.

Any continuing education course for nursing home administrators approved by the National Continuing Education Review Service of the National Association of Boards of Examiners of Nursing Home Administrators will be accepted toward satisfaction of these requirements.

Any continuing education course for nursing home administrators sponsored by the Life Services Network of Illinois, Illinois Council on Long Term Care, County Nursing Home Association of Illinois, Illinois Health Care Association, Illinois Chapter of American College of Health Care Administrators, and the Illinois Nursing Home Administrators Association will be accepted toward satisfaction of these requirements.

Any school, college or university, State agency, or other entity may apply to the Department for approval as a continuing education sponsor. Criteria for qualification as a continuing education sponsor shall be established by rule.

It shall be the responsibility of each continuing education sponsor to maintain records, as prescribed by rule, to verify attendance.

The Department shall establish by rule a means for the verification of completion of the continuing education required by this Section. This verification may be accomplished

through audits of records maintained by registrants; by requiring the filing of continuing education certificates with the Department; or by other means established by the Department.

Any nursing home administrator who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by making application to the Department and filing proof acceptable to the Department, as defined by rule, of his or her fitness to have his or her license restored and by paying the required fee. Proof of fitness may include evidence certifying to active lawful practice in another jurisdiction satisfactory to the Department and by paying the required restoration fee.

However, any nursing home administrator whose license expired while he or she was (1) in federal service on active duty with the Armed Forces of the United States, or the State Militia called into service or training, or (2) in training or education under the supervision of the United States preliminary to induction into the military services, may have his or her license renewed or restored without paying any lapsed renewal fees if within 2 years after honorable termination of such service, training or education, he or she furnishes the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service, training or education has been so terminated.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/13) (from Ch. 111, par. 3663)

(Section scheduled to be repealed on January 1, 2008)

Sec. 13. Endorsement. The Department may, in its discretion, license as a nursing home administrator, without examination, on payment of the required fee, an applicant who is so licensed under the laws of another U.S. jurisdiction, if the requirements for licensure in the other jurisdiction in which the applicant was licensed were, at the date of his or her licensure, substantially equivalent to the requirements then in force in this State; or if the applicant's qualifications were, at the date of his or her licensure in the other jurisdiction, substantially equivalent to the requirements then in force in this State.

Notwithstanding the provisions of this Section, all applicants seeking licensure under this Section shall be required to take and pass an examination testing the applicant's knowledge of Illinois law relating to the practice of nursing home administration.

~~Applicants have 3 years from the date of application to complete the application process. If the process has not been completed in 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.~~

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/15) (from Ch. 111, par. 3665)

(Section scheduled to be repealed on January 1, 2008)

Sec. 15. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary ~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-146, eff. 1-1-02.)



(225 ILCS 70/17) (from Ch. 111, par. 3667)

(Section scheduled to be repealed on January 1, 2008)

Sec. 17. Grounds for disciplinary action.

(a) The Department may impose fines not to exceed \$10,000 ~~\$1,000~~, or may refuse to issue or to renew, or may revoke, suspend, place on probation, censure, reprimand or take other disciplinary or non-disciplinary action with regard to the license of any person, for any one or combination of the following causes:

(1) Intentional material misstatement in furnishing information to the Department.

(2) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof ~~that is a felony~~ or a misdemeanor of which an essential element is dishonesty, ~~or of any crime~~ that is directly related to the practice of the profession of nursing home administration.

(3) Making any misrepresentation for the purpose of obtaining a license, or violating any provision of this Act.

(4) Immoral conduct in the commission of any act, such as sexual abuse or sexual misconduct, related to the licensee's practice.

(5) Failing to respond within 30 ~~60~~ days, to a written request made by the Department for information.

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(7) Habitual use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in the inability to practice with reasonable judgment, skill or safety.

(8) Discipline by another U.S. jurisdiction if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein.

(9) A finding by the Department that the licensee, after having his or her license placed on probationary status has violated the terms of probation.

(10) Willfully making or filing false records or reports in his or her practice, including but not limited to false records filed with State agencies or departments.

(11) Physical illness, mental illness, or other impairment or disability, including, but not limited to, deterioration through the aging process, or loss of motor skill that results in the inability to practice the profession with reasonable judgment, skill or safety.

(12) Disregard or violation of this Act or of any rule issued pursuant to this Act.

(13) Aiding or abetting another in the violation of this Act or any rule or regulation issued pursuant to this Act.

(14) Allowing one's license to be used by an unlicensed person.

(15) (Blank). ~~Conviction of any crime an essential element of which is misstatement, fraud or dishonesty, or conviction in this State or another state of any crime that is a felony under the laws of this State or conviction of a felony in a federal court.~~

(16) Professional incompetence in the practice of nursing home administration.

(17) Conviction of a violation of Section 12-19 of the Criminal Code of 1961 for the abuse and gross neglect of a long term care facility resident.

(18) Violation of the Nursing Home Care Act or of any rule issued under the Nursing Home Care Act.

All proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 ~~3~~ years next after receipt by the Department of (i) a complaint alleging the commission of or notice of the conviction order for any of the acts described herein or (ii) a referral for investigation under Section 3-108 of the Nursing Home Care Act.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their

practice only upon the entry of a Department order based upon a finding by the Board that they have been determined to be recovered from mental illness by the court and upon the Board's recommendation that they be permitted to resume their practice.

The Department, upon the recommendation of the Board, may ~~shall~~ adopt rules which set forth standards to be used in determining what constitutes:

(i) ~~(a)~~ when a person will be deemed sufficiently rehabilitated to warrant the public trust;

(ii) ~~(b)~~ dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(iii) ~~(c)~~ immoral conduct in the commission of any act related to the licensee's practice; and

(iv) ~~(d)~~ professional incompetence in the practice of nursing home administration.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the

Department or Board. The Department or Board may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board shall require such individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act or continued, reinstated, renewed, disciplined or supervised,

subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions shall be referred to the Secretary ~~Director~~ for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary ~~Director~~ immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Board within 30 ~~15~~ days after such suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject administrator's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(b) Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Department, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Department, or by serving as a member of the Board, shall not, as a result of such actions, be subject to criminal prosecution

or civil damages.

(c) Members of the Board, and persons retained under contract to assist and advise in an investigation, shall be indemnified by the State for any actions occurring within the scope of services on or for the Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

Should the Attorney General decline representation, a person entitled to indemnification under this Section shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

A person entitled to indemnification under this Section must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent a person entitled to indemnification under this

Section.

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary ~~Director~~ that the licensee be allowed to resume his or her practice.

(e) The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(f) The Department of Public Health shall transmit to the Department a list of those facilities which receive an "A" violation as defined in Section 1-129 of the Nursing Home Care Act.

(Source: P.A. 89-197, eff. 7-21-95; 90-61, eff. 12-30-97.)

(225 ILCS 70/18) (from Ch. 111, par. 3668)

(Section scheduled to be repealed on January 1, 2008)



Sec. 18. Cease and desist order.

(a) If any person who is not a licensed nursing home administrator violates a provision of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois or the State's Attorney of any county in which the action is brought, petition for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation. If it is established that such person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person shall practice as a nursing home administrator or hold himself or herself out as a nursing home administrator without being licensed under the provisions of this Act, then any licensed nursing home administrator, any interested party, or any person injured thereby may, in addition to the Secretary ~~Director~~, petition for relief as provided in subsection (a) of this Section.

Whoever knowingly practices or offers to practice nursing home administration in this State without being licensed for that purpose shall be guilty of a Class A misdemeanor and for

each subsequent conviction shall be guilty of a Class 4 felony.

(c) Whenever in the opinion of the Department any person not licensed in good standing violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him or her. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 working days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/19) (from Ch. 111, par. 3669)

(Section scheduled to be repealed on January 1, 2008)

Sec. 19. Investigation; hearing notification. Upon the motion of either the Department or the Board or upon the verified complaint in writing of any person setting forth facts that, if proven, would constitute grounds for suspension or revocation under Section 17 of this Act, the Department shall investigate the actions of any person, so accused, who holds or represents that he or she holds a license. Such a person is hereinafter called the accused.

The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license at

least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Board, direct them to file their written answer to such notice to the Board under oath within 30 days after the service on them of such notice and inform them that if they fail to file such answer default will be taken against them and their license may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of their practice, as the Department may deem proper taken with regard thereto.

Written ~~Such written notice and any notice in such proceedings thereafter~~ may be served by personal delivery ~~of the same, personally, to the accused,~~ or by ~~mailing the same by~~ registered or certified mail to the applicant or licensee at his or her last address of record with ~~address specified by the accused in their last notification to~~ the Department.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/20) (from Ch. 111, par. 3670)

(Section scheduled to be repealed on January 1, 2008)

Sec. 20. Board hearing; recommendation. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties ~~both the accused person and the complainant~~ shall be accorded ample opportunity to present in person, or by counsel, such statements, testimony, evidence and

argument as may be pertinent to the charges or to any defense thereto. The Board may continue such hearing from time to time. If the Board is not sitting at the time and place fixed in the notice or at the time and place to which the hearing has been continued, the Department shall continue such hearing for a period not to exceed 30 days.

In case the accused person, after receiving notice, fails to file an answer, the Board may recommend that his or her license be suspended, revoked or placed on probationary status, or the Board may recommend whatever disciplinary action as it may deem proper, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

The Board has the authority to recommend to the Secretary ~~Director~~ that probation be granted or that other disciplinary action be taken as it deems proper. If disciplinary action, other than suspension or revocation, is taken the Board may recommend that the Secretary ~~Director~~ impose reasonable limitations and requirements upon the accused to insure compliance with the terms of the probation or other disciplinary action, including but not limited to regular reporting by the accused to the Department of their actions, placing themselves under the care of a qualified physician for treatment, or limiting their practice in such manner as the Secretary ~~Director~~ may require.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/20.1)

(Section scheduled to be repealed on January 1, 2008)

Sec. 20.1. Summary suspension. The Secretary ~~Director~~ may summarily suspend the license of a nursing home administrator without a hearing, simultaneously with the institution of proceedings for a hearing provided under this Act ~~Section~~ if the Secretary ~~Director~~ finds that evidence in his or her possession indicates that an administrator's continuation in practice would constitute an immediate danger to the public. If the Secretary ~~Director~~ summarily suspends the license of an administrator without a hearing, a hearing shall be held within 30 days after the suspension has occurred.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/21) (from Ch. 111, par. 3671)

(Section scheduled to be repealed on January 1, 2008)

Sec. 21. Appointment of hearing officer. The Secretary ~~Director~~ shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, renew, or discipline a license. The hearing officer shall have full authority to conduct the hearing. ~~There shall be present at least one member of the Board at any such hearing.~~ The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board. The Board shall have 60 days after receipt of the report to review the report of the

hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary ~~Director~~. If the Board fails to present its report to the Secretary within the 60 day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after the request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days after such order. If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order. If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within the 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other

disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners ~~the Director may issue an order based on the report of the hearing officer. However, if the Board does present its report within the specified 60 days, the Director's order shall be based upon the report of the Board.~~ If the Secretary ~~Director~~ disagrees with the recommendation of the Board or the hearing officer, the Secretary ~~Director~~ may issue an order in contravention of the Board's report. The Secretary ~~Director~~ shall promptly provide a written explanation to the Board on any such disagreement.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/22) (from Ch. 111, par. 3672)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22. Subpoena power. The Board or Department has power to subpoena and bring before it any person in this State and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as is prescribed by law for judicial proceedings in civil cases.

The Department, upon a determination that probable cause exists that a violation of one or more of the grounds for discipline listed in Section 17 has occurred or is occurring, may subpoena the records of an individual licensed under this Act provided that prior to the submission of such records to the Board, all information indicating the identity of any

resident shall be removed and deleted. The use of such records shall be restricted to members of the Board and appropriate staff of the Department for the purpose of determining the existence of one or more grounds for discipline of the nursing home administrator as provided for by Section 17 of this Act. Any such review of individual residents' records shall be conducted by the Board in strict confidentiality, provided that such resident records shall be admissible in a disciplinary hearing, before the Department, when necessary to substantiate the grounds for discipline alleged against the administrator licensed under this Act, and provided further that nothing herein shall be deemed to supersede the provisions of Part 21 of Article VIII of the Code of Civil Procedure, as now or hereafter amended, to the extent applicable.

The Secretary ~~Director~~, the designated hearing officer, and any member of the Board have the power to administer oaths at any hearing that the Department is authorized to conduct and any other oaths authorized in an Act administered by the Department.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/24) (from Ch. 111, par. 3674)

(Section scheduled to be repealed on January 1, 2008)

Sec. 24. Motion for rehearing. The Board shall present to the Secretary ~~Director~~ a written report of its findings and recommendations. A copy of such report shall be served upon the



accused person, either personally or by certified mail. Within 20 days after such service, the accused person may present to the Department a motion, in writing, for a rehearing, which shall specify the particular grounds for rehearing. If the accused person orders and pays for a transcript of the record as provided in Section 23, the time elapsing thereafter and before such transcript is ready for delivery to them shall not be counted as part of such 30 days.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/24.1)

(Section scheduled to be repealed on January 1, 2008)

Sec. 24.1. Surrender of license; record; list of disciplined licensees ~~disciplines~~. Upon the suspension, revocation, placement on probationary status, or the taking of any other disciplinary action deemed proper by the Board with regard to a license, the accused shall surrender his or her license to the Department, if ordered to do so by the Department, and upon his or her failure or refusal to do so, the Department may seize the license.

Each order of revocation, suspension, or other disciplinary action shall contain a brief, concise statement of the ground or grounds upon which the Department's action is based, as well as the specific terms and conditions of such action. This document shall be retained as a permanent record by the Board and the Secretary ~~Director~~.

The Department shall at least annually publish a list of the names of all persons disciplined under this Act in the preceding 12 months. Such lists shall be mailed by the Department to any person in the State upon request.

~~In those instances where an order of revocation, suspension, or other disciplinary action has been rendered by virtue of a nursing home administrator's physical illness, including but not limited to deterioration through the aging process, or loss of motor skill that results in an inability to practice with reasonable judgment, skill, or safety, the Department shall only permit this document, and the record of the hearing incident thereto, to be observed, inspected, viewed, or copied pursuant to court order.~~

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 70/26) (from Ch. 111, par. 3676)

(Section scheduled to be repealed on January 1, 2008)

Sec. 26. An order of revocation, suspension, placing the license on probationary status, or other formal disciplinary action as the Department may deem proper, or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, is prima facie proof that:

(a) Such signature is the genuine signature of the Secretary ~~Director~~;

(b) The Secretary ~~Director~~ is duly appointed and qualified;  
and

(c) The Board and the members thereof are qualified.

Such proof may be rebutted.

(Source: P.A. 85-932.)

(225 ILCS 70/28) (from Ch. 111, par. 3678)

(Section scheduled to be repealed on January 1, 2008)

Sec. 28. Rehearing on order of Secretary ~~Director~~. Whenever the Secretary ~~Director~~ believes justice has not been done in the refusal to issue or renew a license or revocation, suspension, or discipline of a license, he or she may order a rehearing.

(Source: P.A. 90-61, eff. 12-30-97.)

Section 25. The Physician Assistant Practice Act of 1987 is amended by changing Sections 3, 4, 7, 10.5, 11, 12, 14.1, 15, 21, 22, 22.1, 22.2, 22.5, 22.6, 22.7, 22.8, 22.9, 22.10, and 22.13 as follows:

(225 ILCS 95/3) (from Ch. 111, par. 4603)

(Section scheduled to be repealed on January 1, 2008)

Sec. 3. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has

the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Administrative Procedure Act is deemed sufficient when mailed to the last known address of a party. The Secretary ~~Director~~ may promulgate rules for the administration and enforcement of this Act and may prescribe forms to be issued in connection with this Act.

(Source: P.A. 88-45.)

(225 ILCS 95/4) (from Ch. 111, par. 4604)

(Section scheduled to be repealed on January 1, 2008)

Sec. 4. In this Act:

1. "Department" means the Department of Financial and Professional Regulation.

2. "Secretary ~~Director~~" means the Secretary ~~Director~~ of Financial and Professional Regulation.

3. "Physician assistant" means any person not a physician who has been certified as a physician assistant by the National Commission on the Certification of Physician Assistants or equivalent successor agency and performs procedures under the supervision of a physician as defined in this Act. A physician assistant may perform such procedures within the specialty of the supervising physician, except that such physician shall exercise such direction, supervision and control over such physician assistants as will assure that patients shall receive

quality medical care. Physician assistants shall be capable of performing a variety of tasks within the specialty of medical care under the supervision of a physician. Supervision of the physician assistant shall not be construed to necessarily require the personal presence of the supervising physician at all times at the place where services are rendered, as long as there is communication available for consultation by radio, telephone or telecommunications within established guidelines as determined by the physician/physician assistant team. The supervising physician may delegate tasks and duties to the physician assistant. Delegated tasks or duties shall be consistent with physician assistant education, training, and experience. The delegated tasks or duties shall be specific to the practice setting and shall be implemented and reviewed under guidelines established by the physician or physician/physician assistant team. A physician assistant, acting as an agent of the physician, shall be permitted to transmit the supervising physician's orders as determined by the institution's by-laws, policies, procedures, or job description within which the physician/physician assistant team practices. Physician assistants shall practice only within the established guidelines.

4. "Board" means the Medical Licensing Board constituted under the Medical Practice Act of 1987.

5. "Disciplinary Board" means the Medical Disciplinary Board constituted under the Medical Practice Act of 1987.

6. "Physician" means, for purposes of this Act, a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987.

7. "Supervising Physician" means, for the purposes of this Act, the primary supervising physician of a physician assistant, who, within his specialty and expertise may delegate a variety of tasks and procedures to the physician assistant. Such tasks and procedures shall be delegated within established guidelines. The supervising physician maintains the final responsibility for the care of the patient and the performance of the physician assistant.

8. "Alternate supervising physician" means, for the purpose of this Act, any physician designated by the supervising physician to provide supervision in the event that he or she is unable to provide that supervision ~~for a period not to exceed 30 days unless the Department is notified in writing.~~ The Department may further define "alternate supervising physician" by rule.

The alternate supervising physicians shall maintain all the same responsibilities as the supervising physician. Nothing in this Act shall be construed as relieving any physician of the professional or legal responsibility for the care and treatment of persons attended by him or by physician assistants under his supervision. Nothing in this Act shall be construed as to limit the reasonable number of alternate supervising physicians, provided they are designated by the

supervising physician.

9. "Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

(Source: P.A. 89-361, eff. 8-17-95.)

(225 ILCS 95/7) (from Ch. 111, par. 4607)

(Section scheduled to be repealed on January 1, 2008)

Sec. 7. Supervision requirements. No more than 2 physician assistants shall be supervised by the supervising physician, although a physician assistant shall be able to hold more than one professional position. Each supervising physician shall file a notice of supervision of such physician assistant according to the rules of the Department. However, the alternate supervising physician may supervise more than 2 physician assistants when the supervising physician is unable to provide such supervision consistent with the definition of alternate physician in Section 4. It is the responsibility of the supervising physician to maintain documentation each time he or she has designated an alternative supervising physician. This documentation shall include the date alternate

supervisory control began, the date alternate supervisory control ended, and any other changes. A supervising physician shall provide a copy of this documentation to the Department, upon request.

Physician assistants shall be supervised only by physicians as defined in this Act who are engaged in clinical practice, or in clinical practice in public health or other community health facilities.

Nothing in this Act shall be construed to limit the delegation of tasks or duties by a physician to a nurse or other appropriately trained personnel.

Nothing in this Act shall be construed to prohibit the employment of physician assistants by a hospital, nursing home or other health care facility where such physician assistants function under the supervision of a supervising physician.

Physician assistants may be employed by the Department of Corrections or the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) for service in facilities maintained by such Departments and affiliated training facilities in programs conducted under the authority of the Director of Corrections or the Secretary of Human Services. Each physician assistant employed by the Department of Corrections or the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) shall be under the supervision of a physician engaged in clinical practice and direct patient



care. Duties of each physician assistant employed by such Departments are limited to those within the scope of practice of the supervising physician who is fully responsible for all physician assistant activities.

A physician assistant may be employed by a practice group or other entity employing multiple physicians at one or more locations. In that case, one of the physicians practicing at a location shall be designated the supervising physician. The other physicians with that practice group or other entity who practice in the same general type of practice or specialty as the supervising physician may supervise the physician assistant with respect to their patients without being deemed alternate supervising physicians for the purpose of this Act.

(Source: P.A. 93-149, eff. 7-10-03.)

(225 ILCS 95/10.5)

(Section scheduled to be repealed on January 1, 2008)

Sec. 10.5. Unlicensed practice; violation; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice as a physician's assistant without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in

this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department has the authority and power to investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(Source: P.A. 89-474, eff. 6-18-96.)

(225 ILCS 95/11) (from Ch. 111, par. 4611)

(Section scheduled to be repealed on January 1, 2008)

Sec. 11. Committee. There is established a physician assistant advisory committee to the Medical Licensing Board. The physician assistant advisory committee shall review and make recommendations to the Board regarding all matters relating to physician assistants. The physician assistant advisory committee shall be composed of 7 members. Three of the 7 members shall be physicians, 2 of whom shall be members of the Board and appointed to the advisory committee by the chairman. One physician, not a member of the Board, shall be a supervisor of a certified physician assistant and shall be approved by the Governor from a list of Illinois physicians supervising certified physician assistants. Three members shall be physician assistants, certified under the law and

appointed by the Governor from a list of 10 names recommended by the Board of Directors of the Illinois Academy of Physician Assistants. One member, not employed or having any material interest in any health care field, shall be appointed by the Governor and represent the public. The chairman of the physician assistant advisory committee shall be a member elected by a majority vote of the physician assistant advisory committee unless already a member of the Board. The physician assistant advisory committee is required to meet and report to the Board as physician assistant issues arise. The terms of office of each of the original 7 members shall be at staggered intervals. One physician and one physician assistant shall serve for a 2 year term. One physician and one physician assistant shall serve a 3 year term. One physician, one physician assistant and the public member shall serve a 4 year term. Upon the expiration of the term of any member, his successor shall be appointed for a term of 4 years in the same manner as the initial appointment. No member shall serve more than 2 consecutive terms.

~~The members of the physician assistant advisory committee shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the committee.~~

A majority of the physician assistant advisory committee members currently appointed shall constitute a quorum. A vacancy in the membership of the committee shall not impair the right of a quorum to perform all of the duties of the

committee.

Members of the physician assistant advisory committee shall have no liability for any action based upon a disciplinary proceeding or other activity performed in good faith as a member of the committee.

(Source: P.A. 90-61, eff. 12-30-97; 91-827, eff. 6-13-00.)

(225 ILCS 95/12) (from Ch. 111, par. 4612)

(Section scheduled to be repealed on January 1, 2008)

Sec. 12. A person shall be qualified for licensure as a physician assistant and the Department may issue a physician assistant license to a ~~if that~~ person who:

1. Has applied in writing in form and substance satisfactory to the Department and has not violated any of the provisions of Section 21 of this Act or the rules promulgated hereunder. The Department may take into consideration any felony conviction of the applicant but such conviction shall not operate as an absolute bar to licensure; ~~and~~

2. Has successfully completed the examination provided by the National Commission on the Certification of Physician's Assistant or its successor agency; ~~and~~

3. Holds a certificate issued by the National Commission on the Certification of Physician Assistants or an equivalent successor agency; and

4. Complies with all applicable rules of the Department.

(Source: P.A. 85-981.)

(225 ILCS 95/14.1)

(Section scheduled to be repealed on January 1, 2008)

Sec. 14.1. Fees.

(a) Fees collected for the administration of this Act shall be set by the ~~The Department by rule shall provide by rule for a schedule of fees to be paid for licenses by all applicants.~~ All fees are not refundable.

(b) (Blank). ~~Except as provided in subsection (c) below, the fees for the administration and enforcement of this Act, including but not limited to original licensure, renewal, and restoration, shall be set by rule.~~

(c) All moneys collected under this Act by the Department shall be deposited in the Illinois State Medical Disciplinary Fund in the State Treasury and used (1) in the exercise of its powers and performance of its duties under this Act, as such use is made by the Department; (2) for costs directly related to license renewal of persons licensed under this Act; and (3) ~~for the costs incurred by the physician assistant advisory committee in the exercise of its powers and performance of its duties under this Act, as such use is made by the Department;~~ and (4) for ~~direct and allocable indirect~~ costs related to the public purposes of the Department ~~of Professional Regulation.~~

All earnings received from investment of moneys in the Illinois State Medical Disciplinary Fund shall be deposited into the Illinois State Medical Disciplinary Fund and shall be

used for the same purposes as fees deposited in the Fund.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 95/15) (from Ch. 111, par. 4615)

(Section scheduled to be repealed on January 1, 2008)

Sec. 15. Endorsement. Upon payment of the required fee, the Department may, in its discretion, license as a physician assistant, an applicant who is ~~may be approved as~~ a physician assistant ~~who has been licensed or approved~~ in another jurisdiction, if the requirements for licensure in that jurisdiction were, at the time of licensure, state which has substantially equivalent to the requirements in force in this State on that date or equivalent to the requirements of this Act the same requirements, and to whom the applicant applies and pays a fee determined by the Department.

(Source: P.A. 85-981.)

(225 ILCS 95/21) (from Ch. 111, par. 4621)

(Section scheduled to be repealed on January 1, 2008)

Sec. 21. Grounds for disciplinary action.

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, censure or reprimand, or take other disciplinary or non-disciplinary action with regard to any license issued under this Act as the Department may deem proper, including the issuance of fines not to exceed \$10,000 ~~\$5000~~ for each violation, for any one or combination of the

following causes:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act, or the rules adopted under this Act.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof ~~any U.S. jurisdiction that is a felony~~ or that is a misdemeanor, of which an essential element ~~of which~~ is dishonesty, or ~~of any crime that~~ which is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining licenses.

(5) Professional incompetence.

(6) Aiding or assisting another person in violating any provision of this Act or its rules.

(7) Failing, within 60 days, to provide information in response to a written request made by the Department.

(8) Engaging in dishonorable, unethical, or unprofessional conduct, as defined by rule, of a character likely to deceive, defraud, or harm the public.

(9) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a physician assistant's inability to practice with reasonable judgment, skill, or safety.

(10) Discipline by another U.S. jurisdiction or foreign nation, if at least one of the grounds for discipline is the same or substantially equivalent to those set forth in this Section.

(11) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate or other form of compensation for any professional services not actually or personally rendered.

(12) A finding by the Disciplinary Board that the licensee, after having his or her license placed on probationary status has violated the terms of probation.

(13) Abandonment of a patient.

(14) Willfully making or filing false records or reports in his or her practice, including but not limited to false records filed with state agencies or departments.

(15) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(16) Physical illness, or mental illness or impairment including but not limited to deterioration through the aging process, or loss of motor skill, mental illness, or disability that results in the inability to practice the profession with reasonable judgment, skill, or safety, including, but not limited to, deterioration through the aging process or loss of motor skill.



(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) (Blank). ~~Conviction in this State or another state of any crime that is a felony under the laws of this State, or conviction of a felony in a federal court.~~

(19) Gross negligence ~~malpractice~~ resulting in permanent injury or death of a patient.

(20) Employment of fraud, deception or any unlawful means in applying for or securing a license as a physician assistant.

(21) Exceeding the authority delegated to him or her by his or her supervising physician in guidelines established by the physician/physician assistant team.

(22) Immoral conduct in the commission of any act, such as sexual abuse, sexual misconduct or sexual exploitation related to the licensee's practice.

(23) Violation of the Health Care Worker Self-Referral Act.

(24) Practicing under a false or assumed name, except as provided by law.

(25) Making a false or misleading statement regarding

his or her skill or the efficacy or value of the medicine, treatment, or remedy prescribed by him or her in the course of treatment.

(26) Allowing another person to use his or her license to practice.

(27) Prescribing, selling, administering, distributing, giving, or self-administering a drug classified as a controlled substance (designated product) or narcotic for other than medically-accepted therapeutic purposes.

(28) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in a manner to exploit the patient for financial gain.

(29) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(30) Violating State or federal laws or regulations relating to controlled substances or other legend drugs.

(31) Exceeding the limited prescriptive authority delegated by the supervising physician or violating the written guidelines delegating that authority.

(32) Practicing without providing to the Department a notice of supervision or delegation of prescriptive authority.

(b) The Department may, without a hearing, refuse to issue or renew or may suspend the license of any person who fails to

file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient, and upon the recommendation of the Disciplinary Board to the Secretary ~~Director~~ that the licensee be allowed to resume his or her practice.

(d) In enforcing this Section, the Department upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be

specifically designated by the Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department finds an individual unable to practice because of the reasons set forth in this Section, the Department may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary ~~Director~~ for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary ~~Director~~ immediately

suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 ~~15~~ days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(Source: P.A. 90-61, eff. 12-30-97; 90-116, eff. 7-14-97; 90-655, eff. 7-30-98.)

(225 ILCS 95/22) (from Ch. 111, par. 4622)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person

that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or certificate or deny the application, without hearing. If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the Department for restoration or issuance of the license or certificate and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license or certificate to pay all expenses of processing this application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary ~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-146, eff. 1-1-02.)

(225 ILCS 95/22.1) (from Ch. 111, par. 4622.1)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.1. Injunction.

(a) If any person violates the provision of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, or the State's Attorney of any county in which the action is brought, petition for an order enjoining the

violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person shall practice as a physician assistant or hold himself or herself out as a physician assistant without being licensed under the provisions of this Act, then any licensed physician assistant, any interested party or any person injured thereby may, in addition to the Secretary ~~Director~~, petition for relief as provided in subsection (a) of this Section.

(c) Whenever in the opinion of the Department any person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued forthwith.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 95/22.2) (from Ch. 111, par. 4622.2)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.2. Investigation; notice; hearing. The Department may investigate the actions of any applicant or of any person or persons holding or claiming to hold a license. The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license, at least 30 days prior to the date set for the hearing, notify the applicant or licensee in writing of any charges made and the time and place for a hearing of the charges before the Disciplinary Board, direct him or her to file his or her written answer thereto to the Disciplinary Board under oath within 20 days after the service on him or her of such notice and inform him or her that if he or she fails to file such answer default will be taken against him or her and his or her license may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of his or her practice, as the Department may deem proper taken with regard thereto. Written ~~Such written~~ notice may be served by personal delivery or certified or registered mail ~~at the last address of his or her last notification~~ to the applicant or licensee at his or her last address of record with the Department. At the time and place fixed in the notice, the Department shall proceed to hear



the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence, and argument as may be pertinent to the charges or to the defense thereto. The Department may continue such hearing from time to time. In case the applicant or licensee, after receiving notice, fails to file an answer, his or her license may in the discretion of the Secretary ~~Director~~, having received first the recommendation of the Disciplinary Board, be suspended, revoked, placed on probationary status, or the Secretary ~~Director~~ may take whatever disciplinary action as he or she may deem proper, including limiting the scope, nature, or extent of such person's practice, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 95/22.5) (from Ch. 111, par. 4622.5)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.5. Subpoena power; oaths. The Department shall have power to subpoena and bring before it any person and to take testimony either orally or by deposition or both, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in civil cases in circuit courts of this State.

The Secretary ~~Director~~, the designated hearing officer, and any member of the Disciplinary Board designated by the

Secretary ~~Director~~ shall each have power to administer oaths to witnesses at any hearing which the Department is authorized to conduct under this Act and any other oaths required or authorized to be administered by the Department under this Act. (Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 95/22.6) (from Ch. 111, par. 4622.6)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.6. At the conclusion of the hearing the Disciplinary Board shall present to the Secretary ~~Director~~ a written report of its findings of fact, conclusions of law and recommendations. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Disciplinary Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary ~~Director~~.

The report of findings of fact, conclusions of law and recommendation of the Disciplinary Board shall be the basis for the Department's order or refusal or for the granting of a license or permit. If the Secretary ~~Director~~ disagrees in any regard with the report of the Disciplinary Board, the Secretary ~~Director~~ may issue an order in contravention thereof. The Secretary ~~Director~~ shall provide a written report to the Disciplinary Board on any deviation, and shall specify with particularity the reasons for such action in the final order.

The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for the violation of this Act.

(Source: P.A. 85-981.)

(225 ILCS 95/22.7) (from Ch. 111, par. 4622.7)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.7. Hearing officer. Notwithstanding the provisions of Section 22.2 of this Act, the Secretary ~~Director~~ shall have the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew, or for discipline of, a license. The Secretary ~~Director~~ shall notify the Disciplinary Board of any such appointment. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Disciplinary Board and the Secretary ~~Director~~. The Disciplinary Board shall have 60 days from receipt of the report to review the report of the hearing officer and present their findings of fact, conclusions of law, and recommendations to the Secretary ~~Director~~. If the Disciplinary Board fails to present its report within the 60 day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after the request, issue an order

directing the Disciplinary Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days after such order. If the Disciplinary Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order. If (i) a direct appeal is requested, (ii) the Disciplinary Board fails to issue its findings of fact, conclusions of law, and recommendations within the 30-day mandate from the Secretary or the Secretary fails to order the Disciplinary Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners  
~~the Director shall issue an order based on the report of the hearing officer.~~ If the Secretary ~~Director~~ disagrees in any regard with the report of the Disciplinary Board or hearing

officer, he or she may issue an order in contravention thereof. The Secretary ~~Director~~ shall provide a written explanation to the Disciplinary Board on any such deviation, and shall specify with particularity the reasons for such action in the final order.

(Source: P.A. 90-61, eff. 12-30-97.)

(225 ILCS 95/22.8) (from Ch. 111, par. 4622.8)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.8. In any case involving the refusal to issue, renew or discipline of a license, a copy of the Disciplinary Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial the Secretary ~~Director~~ may enter an order in accordance with recommendations of the Disciplinary Board except as provided in Section 22.6 or 22.7 of this Act. If the respondent shall order from the reporting service, and pay for a transcript of the record within the time for filing a motion for rehearing, the 20 day period within which such a motion may be filed shall commence upon the delivery of the transcript to

the respondent.

(Source: P.A. 85-981.)

(225 ILCS 95/22.9) (from Ch. 111, par. 4622.9)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.9. Whenever the Secretary ~~Director~~ is satisfied that substantial justice has not been done in the revocation, suspension or refusal to issue or renew a license, the Secretary ~~Director~~ may order a rehearing by the same or another hearing officer or Disciplinary Board.

(Source: P.A. 85-981.)

(225 ILCS 95/22.10) (from Ch. 111, par. 4622.10)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.10. Order or certified copy; prima facie proof. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, shall be prima facie proof that:

(a) the signature is the genuine signature of the Secretary ~~Director~~;

(b) the Secretary ~~Director~~ is duly appointed and qualified; and

(c) the Disciplinary Board and the members thereof are qualified to act.

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

(225 ILCS 95/22.13) (from Ch. 111, par. 4622.13)

(Section scheduled to be repealed on January 1, 2008)

Sec. 22.13. The Secretary ~~Director~~ may temporarily suspend the license of a physician assistant without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 22.2 of this Act, if the Secretary ~~Director~~ finds that evidence in his possession indicates that continuation in practice would constitute an imminent danger to the public. In the event that the Secretary ~~Director~~ suspends, temporarily, this license without a hearing, a hearing by the Department must be held within 30 days after such suspension has occurred, and concluded without appreciable delay.

(Source: P.A. 85-981.)

(225 ILCS 51/40 rep.)

(225 ILCS 51/175 rep.)

Section 30. The Home Medical Equipment and Services Provider License Act is amended by repealing Sections 40 and 175.

(225 ILCS 70/27 rep.)

(225 ILCS 70/30 rep.)

Section 35. The Nursing Home Administrators Licensing and Disciplinary Act is amended by repealing Sections 27 and 30.

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HB1284 Enrolled

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(225 ILCS 95/14 rep.)

Section 40. The Physician Assistant Practice Act of 1987 is amended by repealing Section 14.

Section 99. Effective date. This Act takes effect upon becoming law.