



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4688

by Rep. Kelly M. Burke

SYNOPSIS AS INTRODUCED:

See Index

Amends the Nursing Home Administrators Licensing and Disciplinary Act. Provides that all applicants and licensees shall provide a valid address and email address, which shall serve as the address and email address of record, and shall inform the Department of Financial and Professional Regulation of any change of address or email address through specified means. Adds provisions concerning confidentiality of information collected by the Department. Makes changes in provisions concerning definitions, the Nursing Home Administrators Licensing and Disciplinary Board, powers and duties of the Department, application procedures, rosters, grounds for disciplinary action, reports of violations of the Act, summary suspensions, hearings and motions for rehearing, administrative review, and certification of record. Repeals provisions concerning Board hearings and recommendations, surrender of licenses, rehearings, and fraud and deception by applicants. Makes other changes. Effective immediately.

LRB100 18533 XWW 33751 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Nursing Home Administrators Licensing and
5 Disciplinary Act is amended by changing Sections 4, 5, 5.1, 6,
6 6.5, 16, 17, 17.1, 19, 20.1, 21, 23, 24, 25, 32, 33, and 35, and
7 by adding Sections 4.5 and 26.5 as follows:

8 (225 ILCS 70/4) (from Ch. 111, par. 3654)

9 (Section scheduled to be repealed on January 1, 2028)

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

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

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

17 (3) "Secretary" means the Secretary of Financial and
18 Professional Regulation.

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

22 (5) "Nursing home administrator" means the individual
23 licensed under this Act and directly responsible for

1 planning, organizing, directing and supervising the
2 operation of a nursing home, or who in fact performs such
3 functions, whether or not such functions are delegated to
4 one or more other persons.

5 (6) "Nursing home" or "facility" means any entity that
6 is required to be licensed by the Department of Public
7 Health under the Nursing Home Care Act, as amended, other
8 than a sheltered care home as defined thereunder, and
9 includes private homes, institutions, buildings,
10 residences, or other places, whether operated for profit or
11 not, irrespective of the names attributed to them, county
12 homes for the infirm and chronically ill operated pursuant
13 to the County Nursing Home Act, as amended, and any similar
14 institutions operated by a political subdivision of the
15 State of Illinois that provide, through ~~though~~ their
16 ownership or management, maintenance, personal care, and
17 nursing for 3 or more persons, not related to the owner by
18 blood or marriage, or any similar facilities in which
19 maintenance is provided to 3 or more persons who by reason
20 of illness of physical infirmity require personal care and
21 nursing. The term also means any facility licensed under
22 the ID/DD Community Care Act, the MC/DD Act, or the
23 Specialized Mental Health Rehabilitation Act of 2013.

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

25 (8) "Personal care" means assistance with meals,
26 dressing, movement, bathing, or other personal needs, or

1 general supervision of the physical and mental well-being
2 of an individual who because of age, physical, or mental
3 disability, emotion or behavior disorder, or an
4 intellectual disability is incapable of managing his or her
5 person, whether or not a guardian has been appointed for
6 such individual. For the purposes of this Act, this
7 definition does not include the professional services of a
8 nurse.

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

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

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

25 (12) "Address of record" means the designated address
26 recorded by the Department in the applicant's or licensee's

1 application file or license file maintained by the
2 Department's licensure maintenance unit. ~~It is the duty of~~
3 ~~the applicant or licensee to inform the Department of any~~
4 ~~change of address, and such changes must be made either~~
5 ~~through the Department's website or by contacting the~~
6 ~~Department's licensure maintenance unit.~~

7 (13) "Email address of record" means the designated
8 email address recorded by the Department in the applicant's
9 application file or the licensee's license file, as
10 maintained by the Department's licensure maintenance unit.

11 (Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

12 (225 ILCS 70/4.5 new)

13 Sec. 4.5. Address of record; email address of record. All
14 applicants and licensees shall:

15 (1) provide a valid address and email address to the
16 Department, which shall serve as the address of record and
17 email address of record, respectively, at the time of
18 application for licensure or renewal of a license; and

19 (2) inform the Department of any change of address of
20 record or email address of record within 14 days after such
21 change either through the Department's website or by
22 contacting the Department's licensure maintenance unit.

23
24 (225 ILCS 70/5) (from Ch. 111, par. 3655)

1 (Section scheduled to be repealed on January 1, 2028)

2 Sec. 5. Board.

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

18 (b) Members shall be appointed for a term of 4 years by the
19 Secretary ~~Governor~~. The Secretary ~~Governor~~ shall fill any
20 vacancy for the remainder of the unexpired term. Any member of
21 the Board may be removed by the Secretary ~~Governor~~ for cause.
22 Each member shall serve on the Board until his or her successor
23 is appointed and qualified. No member of the Board shall serve
24 more than 2 consecutive 4-year ~~4-year~~ terms.

25 In making appointments the Secretary ~~Governor~~ shall
26 attempt to insure that the various geographic regions of the

1 State of Illinois are properly represented.

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

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

11 (e) Members of the Board shall be reimbursed for all
12 legitimate, necessary, and authorized expenses. ~~Each member~~
13 ~~and member officer of the Board may receive a per diem stipend~~
14 ~~as the Secretary shall determine. Each member shall be paid~~
15 ~~their necessary expenses while engaged in the performance of~~
16 ~~his or her duties.~~

17 (f) (Blank).

18 (g) (Blank).

19 (h) Members of the Board shall have no liability ~~be immune~~
20 ~~from suit~~ in an ~~any~~ action based upon a ~~any~~ disciplinary
21 proceeding ~~proceedings~~ or other activity ~~acts~~ performed in good
22 faith as a member ~~members~~ of the Board.

23 (i) (Blank).

24 (j) (Blank). ~~The Secretary shall give due consideration to~~
25 ~~all recommendations of the Board. If the Secretary disagrees~~
26 ~~with or takes action contrary to the recommendation of the~~

1 ~~Board, he or she shall provide the Board with a written and~~
2 ~~specific explanation of his or her action.~~

3 (Source: P.A. 95-703, eff. 12-31-07.)

4 (225 ILCS 70/5.1)

5 (Section scheduled to be repealed on January 1, 2028)

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

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

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

23 (Source: P.A. 95-703, eff. 12-31-07.)

24 (225 ILCS 70/6) (from Ch. 111, par. 3656)

1 (Section scheduled to be repealed on January 1, 2028)

2 Sec. 6. Application procedure. Applications for original
3 licenses shall be made to the Department in writing on forms or
4 electronically as prescribed by the Department and shall be
5 accompanied by the required fee, which shall not be refundable.
6 All applications shall contain information that, in the
7 judgment of the Department, will enable the Department to pass
8 on the qualifications of the applicant for a license as a
9 nursing home administrator. ~~The application shall require~~
10 ~~information as in the judgment of the Department will enable~~
11 ~~the Department to pass on the qualifications of the applicant~~
12 ~~for a license.~~

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

18 (Source: P.A. 95-703, eff. 12-31-07.)

19 (225 ILCS 70/6.5)

20 (Section scheduled to be repealed on January 1, 2028)

21 Sec. 6.5. Social Security Number on license application. In
22 addition to any other information required to be contained in
23 the application, every application for an original license
24 under this Act shall include the applicant's Social Security
25 Number, which shall be retained in the agency's records

1 pertaining to the license. As soon as practical, the Department
2 shall assign a customer's identification number to each
3 applicant for a license.

4 Every application for a renewal or reinstated ~~restored~~
5 license shall require the applicant's customer identification
6 number.

7 (Source: P.A. 97-400, eff. 1-1-12.)

8 (225 ILCS 70/16) (from Ch. 111, par. 3666)

9 (Section scheduled to be repealed on January 1, 2028)

10 Sec. 16. The Department shall maintain a roster of
11 individuals who hold licenses under this Act ~~the names and~~
12 ~~addresses of all licensees and of all persons whose licenses~~
13 ~~have been suspended or revoked.~~ This roster shall be available
14 upon written request and payment of the required fee.

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

16 (225 ILCS 70/17) (from Ch. 111, par. 3667)

17 (Section scheduled to be repealed on January 1, 2028)

18 Sec. 17. Grounds for disciplinary action.

19 (a) The Department may ~~impose fines not to exceed \$10,000~~
20 ~~or may~~ refuse to issue or to renew a license, or may revoke,
21 suspend, place on probation, ~~censure~~, reprimand, or take other
22 disciplinary or non-disciplinary action as the Department
23 deems proper, including fines not to exceed \$10,000 for each
24 violation, with regard to any license issued under the

1 provisions of this Act ~~the license of any person~~, for any one
2 or combination of the following causes:

3 (1) Material misstatements ~~Intentional material~~
4 ~~misstatement~~ in furnishing information to the Department
5 or any other State agency or in furnishing information to
6 an insurance company with respect to a claim on behalf of a
7 licensee or patient.

8 (2) Conviction of or entry of a plea of guilty or nolo
9 contendere, finding of guilt, jury verdict, or entry of
10 judgment or sentencing, including, but not limited to,
11 convictions, preceding sentences of supervision,
12 conditional discharge, or first offender probation, to any
13 ~~crime that is a felony~~ under the laws of any jurisdiction
14 of the United States that is (i) a felony or (ii) or any
15 ~~state or territory thereof or a misdemeanor, of which~~ an
16 essential element of which is dishonesty or that is
17 directly related to the practice of the profession of
18 nursing home administration.

19 (3) Fraud or ~~Making any~~ misrepresentation in applying
20 for or procuring ~~for the purpose of obtaining~~ a license
21 under this Act or in connection with applying for renewal
22 or restoration of a license under ~~, or violating any~~
23 ~~provision of~~ this Act.

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

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

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

6 (7) Habitual or excessive use or abuse of drugs defined
7 in law as controlled substances, of ~~use or addiction to~~
8 alcohol, narcotics, stimulants, or any other substances
9 that ~~chemical agent or drug which~~ results in the inability
10 to practice with reasonable judgment, skill, or safety.

11 (8) Adverse action taken ~~Discipline~~ by another U.S.
12 jurisdiction if at least one of the grounds for the
13 discipline is the same or substantially equivalent to those
14 set forth herein.

15 (9) A finding by the Department that the licensee,
16 after having his or her license placed on probationary
17 status, has violated the terms of probation or failed to
18 comply with those terms.

19 (10) Willfully making or filing false records or
20 reports related to the licensee's ~~in his or her~~ practice,
21 including, but not limited to, false records filed with
22 federal or State agencies or departments.

23 (11) Physical illness, mental illness, or other
24 impairment or disability, including, but not limited to,
25 deterioration through the aging process, or loss of motor
26 skill that results in the inability to practice the

1 profession with reasonable judgment, skill or safety.

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

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

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

9 (15) (Blank).

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

12 (17) Conviction of a violation of Section 12-19 or
13 subsection (a) of Section 12-4.4a of the Criminal Code of
14 1961 or the Criminal Code of 2012 for the abuse and
15 criminal neglect of a long term care facility resident.

16 (18) Violation of the Nursing Home Care Act, the
17 Specialized Mental Health Rehabilitation Act of 2013, the
18 ID/DD Community Care Act, or the MC/DD Act or of any rule
19 issued under the Nursing Home Care Act, the Specialized
20 Mental Health Rehabilitation Act of 2013, the ID/DD
21 Community Care Act, or the MC/DD Act. A final adjudication
22 of a Type "AA" violation of the Nursing Home Care Act made
23 by the Illinois Department of Public Health, as identified
24 by rule, relating to the hiring, training, planning,
25 organizing, directing, or supervising the operation of a
26 nursing home and a licensee's failure to comply with this

1 Act or the rules adopted under this Act, shall create a
2 rebuttable presumption of a violation of this subsection.

3 (19) Failure to report to the Department any adverse
4 final action taken against the licensee by a licensing
5 authority of another state, territory of the United States,
6 or foreign country; or by any governmental or law
7 enforcement agency; or by any court for acts or conduct
8 similar to acts or conduct that would constitute grounds
9 for disciplinary action under this Section.

10 (20) Failure to report to the Department the surrender
11 of a license or authorization to practice as a nursing home
12 administrator in another state or jurisdiction for acts or
13 conduct similar to acts or conduct that would constitute
14 grounds for disciplinary action under this Section.

15 (21) Failure to report to the Department any adverse
16 judgment, settlement, or award arising from a liability
17 claim related to acts or conduct similar to acts or conduct
18 that would constitute grounds for disciplinary action
19 under this Section.

20 (22) Failure to submit any required report under
21 Section 80-10 of the Nurse Practice Act.

22 (23) Willfully failing to report an instance of
23 suspected abuse, neglect, financial exploitation, or
24 self-neglect of an eligible adult as defined in and
25 required by the Adult Protective Services Act.

26 (24) Being named as an abuser in a verified report by

1 the Department on Aging under the Adult Protective Services
2 Act and upon proof by clear and convincing evidence that
3 the licensee abused, neglected, or financially exploited
4 an eligible adult as defined in the Adult Protective
5 Services Act.

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

14 The entry of an order or judgment by any circuit court
15 establishing that any person holding a license under this Act
16 is a person in need of mental treatment operates as a
17 suspension of that license. That person may resume their
18 practice only upon the entry of a Department order based upon a
19 finding by the Board that they have been determined to be
20 recovered from mental illness by the court and upon the Board's
21 recommendation that they be permitted to resume their practice.

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

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

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

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

6 (iv) professional incompetence in the practice of
7 nursing home administration.

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

11 In enforcing this Section, the Department or Board, upon a
12 showing of a possible violation, may compel any individual
13 licensed to practice under this Act, or who has applied for
14 licensure pursuant to this Act, to submit to a mental or
15 physical examination, or both, as required by and at the
16 expense of the Department. The examining physician or
17 physicians shall be those specifically designated by the
18 Department or Board. The Department or Board may order the
19 examining physician to present testimony concerning this
20 mental or physical examination of the licensee or applicant. No
21 information shall be excluded by reason of any common law or
22 statutory privilege relating to communications between the
23 licensee or applicant and the examining physician. The
24 individual to be examined may have, at his or her own expense,
25 another physician of his or her choice present during all
26 aspects of the examination. Failure of any individual to submit

1 to mental or physical examination, when directed, shall be
2 grounds for suspension of his or her license until such time as
3 the individual submits to the examination if the Department
4 finds, after notice and hearing, that the refusal to submit to
5 the examination was without reasonable cause.

6 If the Department or Board finds an individual unable to
7 practice because of the reasons set forth in this Section, the
8 Department or Board shall require such individual to submit to
9 care, counseling, or treatment by physicians approved or
10 designated by the Department or Board, as a condition, term, or
11 restriction for continued, reinstated, or renewed licensure to
12 practice; or in lieu of care, counseling, or treatment, the
13 Department may file, or the Board may recommend to the
14 Department to file, a complaint to immediately suspend, revoke,
15 or otherwise discipline the license of the individual. Any
16 individual whose license was granted pursuant to this Act or
17 continued, reinstated, renewed, disciplined or supervised,
18 subject to such terms, conditions or restrictions who shall
19 fail to comply with such terms, conditions or restrictions
20 shall be referred to the Secretary for a determination as to
21 whether the licensee shall have his or her license suspended
22 immediately, pending a hearing by the Department. In instances
23 in which the Secretary immediately suspends a license under
24 this Section, a hearing upon such person's license must be
25 convened by the Board within 30 days after such suspension and
26 completed without appreciable delay. The Department and Board

1 shall have the authority to review the subject administrator's
2 record of treatment and counseling regarding the impairment, to
3 the extent permitted by applicable federal statutes and
4 regulations safeguarding the confidentiality of medical
5 records.

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

11 (b) Any individual or organization acting in good faith,
12 and not in a willful ~~wilful~~ and wanton manner, in complying
13 with this Act by providing any report or other information to
14 the Department, or assisting in the investigation or
15 preparation of such information, or by participating in
16 proceedings of the Department, or by serving as a member of the
17 Board, shall not, as a result of such actions, be subject to
18 criminal prosecution or civil damages.

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

1 good faith or were willful ~~wilful~~ and wanton.

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

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

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

19 (d) The determination by a circuit court that a licensee is
20 subject to involuntary admission or judicial admission as
21 provided in the Mental Health and Developmental Disabilities
22 Code, as amended, operates as an automatic suspension. Such
23 suspension will end only upon a finding by a court that the
24 patient is no longer subject to involuntary admission or
25 judicial admission and issues an order so finding and
26 discharging the patient; and upon the recommendation of the

1 Board to the Secretary that the licensee be allowed to resume
2 his or her practice.

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

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

14 (Source: P.A. 98-104, eff. 7-22-13; 98-990, eff. 8-18-14;
15 99-180, eff. 7-29-15.)

16 (225 ILCS 70/17.1)

17 (Section scheduled to be repealed on January 1, 2028)

18 Sec. 17.1. Reports of violations of Act or other conduct.

19 (a) The owner or licensee of a long term care facility
20 licensed under the Nursing Home Care Act who employs or
21 contracts with a licensee under this Act shall report to the
22 Department any instance of which he or she has knowledge
23 arising in connection with operations of the health care
24 institution, including the administration of any law by the
25 institution, in which a licensee under this Act has either

1 committed an act or acts which may constitute a violation of
2 this Act or unprofessional conduct related directly to patient
3 care, or which may indicate that the licensee may have a mental
4 or physical disability that may endanger patients under that
5 licensee's care. Additionally, every nursing home shall report
6 to the Department any instance when a licensee is terminated
7 for cause which would constitute a violation of this Act. The
8 Department may take disciplinary or non-disciplinary action if
9 the termination is based upon unprofessional conduct related to
10 planning, organizing, directing, or supervising the operation
11 of a nursing home as defined by this Act or other conduct by
12 the licensee that would be a violation of this Act or rules.

13 For the purposes of this subsection, "owner" does not mean
14 the owner of the real estate or physical plant who does not
15 hold management or operational control of the licensed long
16 term care facility.

17 (b) Any insurance company that offers policies of
18 professional liability insurance to licensees, or any other
19 entity that seeks to indemnify the professional liability of a
20 licensee, shall report the settlement of any claim or adverse
21 final judgment rendered in any action that alleged negligence
22 in planning, organizing, directing, or supervising the
23 operation of a nursing home by the licensee.

24 (c) The State's Attorney of each county shall report to the
25 Department each instance in which a licensee is convicted of or
26 enters a plea of guilty or nolo contendere to any crime that is

1 a felony, or of which an essential element is dishonesty, or
2 that is directly related to the practice of the profession of
3 nursing home administration.

4 (d) Any agency, board, commission, department, or other
5 instrumentality of the government of the State of Illinois
6 shall report to the Department any instance arising in
7 connection with the operations of the agency, including the
8 administration of any law by the agency, in which a licensee
9 under this Act has either committed an act or acts which may
10 constitute a violation of this Act or unprofessional conduct
11 related directly to planning, organizing, directing or
12 supervising the operation of a nursing home, or which may
13 indicate that a licensee may have a mental or physical
14 disability that may endanger others.

15 (e) All reports required by items (19), (20), and (21) of
16 subsection (a) of Section 17 and by this Section 17.1 shall be
17 submitted to the Department in a timely fashion. The reports
18 shall be filed in writing within 60 days after a determination
19 that a report is required under this Section. All reports shall
20 contain the following information:

21 (1) The name, address, and telephone number of the
22 person making the report.

23 (2) The name, address, and telephone number of the
24 person who is the subject of the report.

25 (3) The name and date of birth of any person or persons
26 whose treatment is a subject of the report, or other means

1 of identification if that information is not available, and
2 identification of the nursing home facility where the care
3 at issue in the report was rendered.

4 (4) A brief description of the facts which gave rise to
5 the issuance of the report, including the dates of any
6 occurrences deemed to necessitate the filing of the report.

7 (5) If court action is involved, the identity of the
8 court in which the action is filed, along with the docket
9 number and the date the action was filed.

10 (6) Any further pertinent information that the
11 reporting party deems to be an aid in evaluating the
12 report.

13 If the Department receives a written report concerning an
14 incident required to be reported under item (19), (20), or (21)
15 of subsection (a) of Section 17, then the licensee's failure to
16 report the incident to the Department within 60 days may not be
17 the sole ground for any disciplinary action against the
18 licensee.

19 (f) Any individual or organization acting in good faith,
20 and not in a willful ~~wilful~~ and wanton manner, in complying
21 with this Section by providing any report or other information
22 to the Department, by assisting in the investigation or
23 preparation of such information, by voluntarily reporting to
24 the Department information regarding alleged errors or
25 negligence by a licensee, or by participating in proceedings of
26 the Department, shall not, as a result of such actions, be

1 subject to criminal prosecution or civil damages.

2 (g) Upon the receipt of any report required by this
3 Section, the Department shall notify in writing, by certified
4 mail, the person who is the subject of the report. The
5 notification shall be made within 30 days after the
6 Department's receipt of the report.

7 The notification shall include a written notice setting
8 forth the person's right to examine the report. The
9 notification shall also include the address at which the file
10 is maintained, the name of the custodian of the file, and the
11 telephone number at which the custodian may be reached. The
12 person who is the subject of the report shall submit a written
13 statement responding, clarifying, adding to, or proposing the
14 amending of the report previously filed. The statement shall
15 become a permanent part of the file and must be received by the
16 Department no more than 30 days after the date on which the
17 person was notified by the Department of the existence of the
18 original report.

19 The Department shall review a report received by it,
20 together with any supporting information and responding
21 statements submitted by the person who is the subject of the
22 report. The review by the Department shall be in a timely
23 manner, but in no event shall the Department's initial review
24 of the material contained in each disciplinary file last less
25 than 61 days nor more than 180 days after the receipt of the
26 initial report by the Department.

1 When the Department makes its initial review of the
2 materials contained within its disciplinary files, the
3 Department shall, in writing, make a determination as to
4 whether there are sufficient facts to warrant further
5 investigation or action. Failure to make such a determination
6 within the time provided shall be deemed to be a determination
7 that there are not sufficient facts to warrant further
8 investigation or action. The Department shall notify the person
9 who is the subject of the report of any final action on the
10 report.

11 (h) A violation of this Section is a Class A misdemeanor.

12 (i) If any person or entity violates this Section, then an
13 action may be brought in the name of the People of the State of
14 Illinois, through the Attorney General of the State of
15 Illinois, for an order enjoining the violation or for an order
16 enforcing compliance with this Section. Upon filing of a
17 verified petition in the court, the court may issue a temporary
18 restraining order without notice or bond and may preliminarily
19 or permanently enjoin the violation. If it is established that
20 the person or entity has violated or is violating the
21 injunction, the court may punish the offender for contempt of
22 court. Proceedings under this subsection (i) shall be in
23 addition to, and not in lieu of, all other remedies and
24 penalties provided for by this Section.

25 (Source: P.A. 99-143, eff. 7-27-15.)

1 (225 ILCS 70/19) (from Ch. 111, par. 3669)

2 (Section scheduled to be repealed on January 1, 2028)

3 Sec. 19. Investigation; notice and hearing. ~~hearing~~
4 ~~notification.~~

5 (a) The Department may investigate the actions of any
6 applicant or of any person holding or claiming to hold a
7 license under this Act.

8 (b) The Department shall, before disciplining an applicant
9 or licensee, at least 30 days prior to the date set for the
10 hearing: (i) notify, in writing, the accused of the charges
11 made and the time and place for the hearing on the charges,
12 (ii) direct him or her to file a written answer to the charges
13 under oath within 20 days after service of the notice, and
14 (iii) inform the applicant or licensee that failure to file an
15 answer will result in a default being entered against the
16 applicant or licensee.

17 (c) Written or electronic notice, and any notice in the
18 subsequent proceeding, may be served by personal delivery, by
19 email, or by mail to the applicant or licensee at his or her
20 address of record or email address of record.

21 (d) At the time and place fixed in the notice, the Board or
22 hearing officer appointed by the Secretary shall proceed to
23 hear the charges and the parties or their counsel shall be
24 accorded ample opportunity to present any statement,
25 testimony, evidence, and argument as may be pertinent to the
26 charges or to their defense. The Board or hearing officer may

1 continue the hearing from time to time.

2 (e) In case the person, after receiving the notice, fails
3 to file an answer, his or her license may, in the discretion of
4 the Secretary, having first received the recommendation of the
5 Board, be suspended, revoked, or placed on probationary status,
6 or be subject to whatever disciplinary action the Secretary
7 considers proper, including limiting the scope, nature, or
8 extent of the person's practice or the imposition of a fine,
9 without hearing, if the act or acts charged constitute
10 sufficient grounds for that action under this Act.

11 ~~Upon the motion of either the Department or the Board or upon~~
12 ~~the verified complaint in writing of any person setting forth~~
13 ~~facts that, if proven, would constitute grounds for suspension~~
14 ~~or revocation under Section 17 of this Act, the Department~~
15 ~~shall investigate the actions of any person, so accused, who~~
16 ~~holds or represents that he or she holds a license. Such a~~
17 ~~person is hereinafter called the accused.~~

18 ~~The Department shall, before suspending, revoking, placing~~
19 ~~on probationary status, or taking any other disciplinary action~~
20 ~~as the Department may deem proper with regard to any license at~~
21 ~~least 30 days prior to the date set for the hearing, notify the~~
22 ~~accused in writing of any charges made and the time and place~~
23 ~~for a hearing of the charges before the Board, direct them to~~
24 ~~file their written answer to such notice to the Board under~~
25 ~~oath within 30 days after the service on them of such notice~~
26 ~~and inform them that if they fail to file such answer default~~

1 ~~will be taken against them and their license may be suspended,~~
2 ~~revoked, placed on probationary status, or have other~~
3 ~~disciplinary action, including limiting the scope, nature or~~
4 ~~extent of their practice, as the Department may deem proper~~
5 ~~taken with regard thereto.~~

6 ~~Written notice may be served by personal delivery or by~~
7 ~~registered or certified mail to the applicant or licensee at~~
8 ~~his or her last address of record with the Department.~~

9 (Source: P.A. 95-703, eff. 12-31-07.)

10 (225 ILCS 70/20.1)

11 (Section scheduled to be repealed on January 1, 2028)

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

22 (Source: P.A. 95-703, eff. 12-31-07.)

23 (225 ILCS 70/21) (from Ch. 111, par. 3671)

24 (Section scheduled to be repealed on January 1, 2028)

1 Sec. 21. Appointment of hearing officer. Notwithstanding
2 any other provision of this Act, the ~~The~~ Secretary has ~~shall~~
3 ~~have~~ the authority to appoint an attorney duly licensed to
4 practice law in the State of Illinois to serve as the hearing
5 officer in any action for refusal to issue or ~~7~~ renew a
6 license~~7~~ or discipline a licensee ~~license~~. The hearing officer
7 shall have full authority to conduct the hearing. The hearing
8 officer shall report his or her findings of fact, conclusions
9 of law, and recommendations to the Board and to the Secretary.
10 ~~The Board shall have 60 days after receipt of the report to~~
11 ~~review the report of the hearing officer and present its~~
12 ~~findings of fact, conclusions of law, and recommendations to~~
13 ~~the Secretary. If the Board fails to present its report to the~~
14 ~~Secretary within the 60 day period, the respondent may request~~
15 ~~in writing a direct appeal to the Secretary, in which case the~~
16 ~~Secretary shall, within 7 calendar days after the request,~~
17 ~~issue an order directing the Board to issue its findings of~~
18 ~~fact, conclusions of law, and recommendations to the Secretary~~
19 ~~within 30 calendar days after such order. If the Board fails to~~
20 ~~issue its findings of fact, conclusions of law, and~~
21 ~~recommendations within that time frame to the Secretary after~~
22 ~~the entry of such order, the Secretary shall, within 30~~
23 ~~calendar days thereafter, issue an order based upon the report~~
24 ~~of the hearing officer and the record of the proceedings or~~
25 ~~issue an order remanding the matter back to the hearing officer~~
26 ~~for additional proceedings in accordance with the order. If (i)~~

1 ~~a direct appeal is requested, (ii) the Board fails to issue its~~
2 ~~findings of fact, conclusions of law, and recommendations~~
3 ~~within the 30 day mandate from the Secretary or the Secretary~~
4 ~~fails to order the Board to do so, and (iii) the Secretary~~
5 ~~fails to issue an order within 30 calendar days thereafter,~~
6 ~~then the hearing officer's report is deemed accepted and a~~
7 ~~final decision of the Secretary. Notwithstanding any other~~
8 ~~provision of this Section, if the Secretary, upon review,~~
9 ~~determines that substantial justice has not been done in the~~
10 ~~revocation, suspension, or refusal to issue or renew a license~~
11 ~~or other disciplinary action taken as the result of the entry~~
12 ~~of the hearing officer's report, the Secretary may order a~~
13 ~~rehearing by the same or other examiners. If the Secretary~~
14 ~~disagrees with the recommendation of the Board or the hearing~~
15 ~~officer, the Secretary may issue an order in contravention of~~
16 ~~the Board's report. The Secretary shall promptly provide a~~
17 ~~written explanation to the Board on any such disagreement.~~

18 (Source: P.A. 95-703, eff. 12-31-07.)

19 (225 ILCS 70/23) (from Ch. 111, par. 3673)

20 (Section scheduled to be repealed on January 1, 2028)

21 Sec. 23. Record of proceedings; transcript. The
22 Department, at its expense, shall preserve a record of all
23 proceedings at the ~~any~~ formal hearing of any case. The notice
24 of hearing, complaint, all other documents in the nature of
25 pleadings, ~~and~~ written motions filed in the proceedings, the

1 transcript of testimony, the report of the Board, and the
2 orders of the Department shall be the record of the
3 proceedings. ~~The Department shall furnish a transcript of the~~
4 ~~record to any person interested in such hearing upon payment of~~
5 ~~the fee required under Section 2105-115 of the Department of~~
6 ~~Professional Regulation Law (20 ILCS 2105/2105-115).~~

7 (Source: P.A. 90-61, eff. 12-30-97; 91-239, eff. 1-1-00.)

8 (225 ILCS 70/24) (from Ch. 111, par. 3674)

9 (Section scheduled to be repealed on January 1, 2028)

10 Sec. 24. Hearing; motion ~~Motion~~ for rehearing.

11 (a) The Board or the hearing officer appointed by the
12 Secretary shall hear evidence in support of the formal charges
13 and evidence produced by the licensee. At the conclusion of the
14 hearing, the ~~The~~ Board or the hearing officer shall present to
15 the Secretary a written report of its findings of fact,
16 conclusions of law, and recommendations. If the Board fails to
17 present its report, the applicant or licensee may request in
18 writing a direct appeal to the Secretary, in which case the
19 Secretary may issue an order based upon the report of the
20 hearing officer and the record of the proceedings or issue an
21 order remanding the matter back to the hearing officer for
22 additional proceedings in accordance with the order.

23 (b) At the conclusion of the hearing, a ~~A~~ copy of the
24 Board's or hearing officer's ~~such~~ report shall be served upon
25 the applicant or licensee ~~accused person~~, either personally or

1 as provided in this Act for the service of the notice of
2 hearing ~~by certified mail~~. Within 20 days after such service,
3 the applicant or licensee ~~accused person~~ may present to the
4 Department a motion, in writing, for a rehearing that ~~, which~~
5 shall specify the particular grounds for rehearing. The
6 Department may respond to the motion for rehearing within 20
7 calendar days after its service on the Department. If no motion
8 for a rehearing is filed, then upon the expiration of the time
9 specified for filing such a motion, or upon denial of a motion
10 for rehearing, the Secretary may enter an order in accordance
11 with recommendations of the Board or hearing officer. If the
12 applicant or licensee ~~If the accused person~~ orders from the
13 reporting service and pays for a transcript of the record
14 within the time for filing a motion for rehearing, the 20-day
15 period within which a motion may be filed shall commence upon
16 delivery of the transcript to the applicant or licensee ~~as~~
17 ~~provided in Section 23, the time elapsing thereafter and before~~
18 ~~such transcript is ready for delivery to them shall not be~~
19 ~~counted as part of such 30 days.~~

20 (c) If the Secretary disagrees in any regard with the
21 report of the Board or hearing officer, the Secretary may issue
22 an order contrary to the report.

23 (d) Whenever the Secretary is not satisfied that
24 substantial justice has been done, the Secretary may order a
25 rehearing by the same or another hearing officer.

26 (e) At any point in any investigation or disciplinary

1 proceeding provided for in this Act, both parties may agree to
2 a negotiated consent order. The consent order shall be final
3 upon signature of the Secretary.

4 (Source: P.A. 95-703, eff. 12-31-07.)

5 (225 ILCS 70/25) (from Ch. 111, par. 3675)

6 (Section scheduled to be repealed on January 1, 2028)

7 Sec. 25. Administrative review; certification of record.

8 (a) All final administrative decisions of the Department
9 are subject to judicial review pursuant to the Administrative
10 Review Law and all its rules adopted pursuant thereto. The term
11 "administrative decision" is defined as in Section 3-101 of the
12 Code of Civil Procedure.

13 (b) Proceedings for judicial review shall be commenced in
14 the circuit court of the county in which the party applying for
15 review resides; but if the party is not a resident of this
16 State, the venue shall be in Sangamon County.

17 (c) The Department shall not be required to certify any
18 record to the court or file any answer in court or to otherwise
19 appear in any court in a judicial review proceeding, unless and
20 until the Department has received from the plaintiff ~~there is~~
21 ~~filed in the court, with the complaint, a receipt from the~~
22 ~~Department acknowledging~~ payment of the costs of furnishing and
23 certifying the record, which costs shall be determined by the
24 Department. ~~Exhibits shall be certified without cost.~~ Failure
25 on the part of the plaintiff to file a receipt in court shall

1 be grounds for dismissal of the action. During the pendency and
2 hearing of any and all judicial proceedings incident to a
3 disciplinary action the sanctions imposed upon the accused by
4 the Department shall remain in full force and effect.

5 (Source: P.A. 87-1031.)

6 (225 ILCS 70/26.5 new)

7 Sec. 26.5. Confidentiality. All information collected by
8 the Department in the course of an examination or investigation
9 of a licensee or applicant, including, but not limited to, any
10 complaint against a licensee filed with the Department and
11 information collected to investigate any such complaint, shall
12 be maintained for the confidential use of the Department and
13 shall not be disclosed. The Department shall not disclose the
14 information to anyone other than law enforcement officials,
15 other regulatory agencies that have an appropriate regulatory
16 interest as determined by the Secretary, or a party presenting
17 a lawful subpoena to the Department. Information and documents
18 disclosed to a federal, State, county, or local law enforcement
19 agency shall not be disclosed by the agency for any purpose to
20 any other agency or person. A formal complaint filed against a
21 licensee by the Department or any order issued by the
22 Department against a licensee or applicant shall be a public
23 record, except as otherwise prohibited by law.

24 (225 ILCS 70/32) (from Ch. 111, par. 3682)

1 (Section scheduled to be repealed on January 1, 2028)

2 Sec. 32. Restoration.At any time after the successful
3 completion of a term of probation, suspension, or revocation of
4 any license under this Act, the Department may, ~~upon the~~
5 ~~recommendation of the Board,~~ restore the license to the
6 licensee upon the written recommendation of the Board ~~it to the~~
7 ~~accused person,~~ unless after an investigation and a hearing,
8 the Board or Department determines ~~upon the recommendation of~~
9 ~~the Board~~ that restoration is not in the public interest. Where
10 circumstances of suspension or revocation so indicate, the
11 Department may require an examination of the licensee prior to
12 restoring his or her license. No person whose license has been
13 revoked as authorized in this Act may apply for restoration of
14 that license or permit until such time as provided for in the
15 Department of Professional Regulation Law of the Civil
16 Administrative Code of Illinois.

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

18 (225 ILCS 70/33) (from Ch. 111, par. 3683)

19 (Section scheduled to be repealed on January 1, 2028)

20 Sec. 33. Surrender of license. Upon the revocation or
21 suspension of any license, the licensee shall immediately
22 ~~forthwith~~ surrender the license to the Department and if the
23 licensee fails to do so, the Department shall have the right to
24 seize the license.

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

1 (225 ILCS 70/35) (from Ch. 111, par. 3685)

2 (Section scheduled to be repealed on January 1, 2028)

3 Sec. 35. Illinois Administrative Procedure Act. The
4 Illinois Administrative Procedure Act is hereby expressly
5 adopted and incorporated herein as if all of the provisions of
6 that Act were included in this Act, except that the provision
7 of subsection (d) of Section 10-65 of the Illinois
8 Administrative Procedure Act that provides that at hearings the
9 licensee has the right to show compliance with all lawful
10 requirements for retention, continuation or renewal of the
11 license is specifically excluded. ~~For the purpose of this Act~~
12 ~~the notice required under Section 10-25 of the Administrative~~
13 ~~Procedure Act is deemed sufficient when mailed to the last~~
14 ~~known address of a party.~~

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

16 (225 ILCS 70/20 rep.)

17 (225 ILCS 70/24.1 rep.)

18 (225 ILCS 70/28 rep.)

19 (225 ILCS 70/31 rep.)

20 Section 15. The Nursing Home Administrators Licensing and
21 Disciplinary Act is amended by repealing Sections 20, 24.1, 28,
22 and 31.

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

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7	225 ILCS 70/6	from Ch. 111, par. 3656
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