**Section 245.130 Adverse Licensure Actions**

a) Adverse licensure actions include the denial of an initial license application, denial of an application for license renewal, revocation of a license, suspension of a license, and the imposition of a penalty or fine.

b) Adverse licensure action shall be considered by the Department under the following conditions:

1) Failure of the agency to meet the standards prescribed by the Department in this Part.

2) *Satisfactory evidence that the moral character of the applicant or supervisor of the agency is not reputable. In determining moral character, the Department may take into consideration any convictions of the applicant or supervisor* for criminal offenses, *but such convictions shall not operate as a bar to licensing.* (Section 8(b) of the Act)

3) *Lack of personnel qualified by training and experience to properly perform the function of an agency*. This determination shall be based on the personnel requirements established in this Part. (Section 8(c) of the Act)

4) *Insufficient financial or other resources to operate and conduct a home health, home services or home nursing agency in accordance with the requirements of the Act and* this Part. (Section 8(d) of the Act)

5) *Refusal to make books, records, policies and procedures, or any other materials requested during the course of an investigation or inspection available to the Department.* (Section 9.01 of the Act)

6) *Violation of any provision of the Act* or this Part. (Section 9(a) of the Act)

7) Conduct or practice found by the Department to be detrimental to the health, safety or welfare of a patient or client.

8) *A final determination, that includes exhaustion of all available appeal and administrative review rights, of a violation of Section 1400 or 1400.2 of the Unemployment Insurance Act or Section 4(d) of the Workers' Compensation Act*. (Section 8(e) of the Act)

c) In determining whether to take adverse licensure action, the Department shall consider the following factors:

1) *The gravity of the violation, including the probability that death or serious physical or mental harm to a patient or consumer will result or has resulted* and *the severity of the actual or potential harm.*

2) *The extent to which the provisions of the* Act or this Part *were violated.*

3) *The reasonable diligence exercised by the licensee and* any *efforts* by the licensee *to correct the violations.*

4) *Any previous violations committed by the licensee.*

5) *The financial benefit to the agency of committing or continuing the violation.* (Section 9.04(c) of the Act)

d) The Department shall deny an application for license renewal when the licensee *refuses to make payment at the time of the application for renewal of the license* for penalties or fines that have been imposed and added to the license fee. (Section 10.01(c) of the Act)

e) The Director will order an emergency suspension of a license when the Director finds that continued operation of the agency poses an immediate and serious danger to the public health, safety or welfare. The suspension shall take effect upon the issuance of an order of emergency suspension by the Director and shall remain in effect during any administrative proceeding contesting the action. Promptly following any emergency suspension of a license, the Department shall take action to revoke the license.

f) Notice of Adverse Licensure Action

1) *The Department shall notify the applicant or licensee* in writing *before denying an application refusing to renew a license, or revoking a license.* (Section 10(a) of the Act)

2) *The notice shall be* served on the applicant or licensee either *by personal service or by certified mail.* The notice shall contain the following information:

A) A description of the *particular reasons for the proposed action*, including citations of the specific provisions of the Act and this Part under which the proposed action is being taken.

B) The date, not less than 15 days from the date of the mailing or service of the notice, on which the action will take effect, unless appealed by the applicant or licensee.

C) A description of the manner in which the applicant or licensee may appeal the proposed action and the right of the applicant or licensee to a hearing under Section 10 of the Act and Section 245.150 of this Part. (Section 10(b) of the Act)

(Source: Amended at 43 Ill. Reg. 9134, effective August 12, 2019)