**Section 350.165 Criteria for Adverse Licensure Actions**

a) Adverse licensure actions are determinations to deny the issuance of an initial license, to deny the issuance of a renewal of a license, or to revoke the current license of a facility.

b) A determination by the Director to take adverse licensure action against a facility will be based on a finding that one or more of the following criteria are met:

1) *There has been a substantial failure to comply with* the *Act or* this Part. *A substantial failure by a facility shall include, but not be limited to, any of the following*:

A) *Termination of Medicare or Medicaid certification by the Centers for Medicare and Medicaid Services; or*

B) *A failure by the facility to pay any fine assessed under* theAct *after the Department has sent to the facility and licensee at least 2 notices of assessment that include a schedule of payments as determined by the Department, taking into account extenuating circumstances and financial hardships of the facility*. (Section 3-119(a)(1) of the Act)

2) *Conviction of the licensee, or of the person designated to manage or supervise the facility, of a felony, or of 2 or more misdemeanors involving moral turpitude, during the previous 5 years as shown by* *a certified copy of the record of the court of conviction.* (Section 3-119(a)(2) of the Act)

3) The moral character of the licensee, administrator, manager, or supervisor of the facility is not reputable*.* Evidence to be considered will include, but not be limited to, verifiable statements by residents of a facility or law enforcement officials. In addition, the definition afforded to the terms "reputable," "unreputable," and "irreputable" by the circuit courts of the State of Illinois shall apply when appropriate to the given situation. For purposes of this Section, a manager or supervisor of the facility is an individual with responsibility for the overall management, direction, coordination, or supervision of the facility or the facility staff.

4) *Personnel is insufficient in number or unqualified by training or experience to properly care for the number and type of residents* *served by the facility*. Requirements in this Part concerning personnel, including Sections 350.810, 350.820, 350.1220, 350.1230 and 350.1240, will be considered in making this determination. (Section 3-119(a)(3) of the Act)

5) *Financial or other resources are* *insufficient to conduct and operate the facility in accordance with* the Act and this Part*.* Financial information and changes in financial information provided by the facility under Section 350.120(e) and under Section 3-208 of the Act will be considered in making this determination. (Section 3-119(a)(4) of the Act)

6) *The facility is not under the direct supervision of a full-time administrator* as required by Section 350.510 *who is licensed, if required, under the Nursing Home Administrators Licensing and Disciplinary Act*. (Section 3-119(a)(5) of the Act)

7) *The facility has committed 2 Type "AA" violations within a 2-year period*. (Section 3-119(a)(6) of the Act)

8) *The facility has committed a Type "AA" violation while the facility is listed as a "distressed facility"*. (Section 3-119(a)(7) of the Act)

9) The facility has violated the rights of residents of the facility by any of the following actions:

A) A pervasive pattern of cruelty or indifference to residents has occurred in the facility.

B) The facility has appropriated the property of a resident or has converted a resident’s property for the facility's use without written consent of the resident or the resident's legal guardian.

C) The facility has secured property, or a bequest of property, from a resident by undue influence.

10) The facility knowingly submitted false information either on the licensure or renewal application forms or during the course of an inspection or survey of the facility.

11) The facility has refused to allow an inspection or survey of the facility by agents of the Department.

c) The Director will consider all available evidence at the time of the determination, including the history of the facility and the applicant in complying with the Act and this Part, notices of violations that have been issued to the facility and the applicant, findings of surveys and inspections, and any other evidence provided by the facility, residents, law enforcement officials and other interested individuals.

(Source: Amended at 48 Ill. Reg. 2546, effective January 30, 2024)