



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0149

Introduced 1/14/2009, by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

See Index

Amends the Nursing Home Care Act. Changes the definition of "affiliate" and adds definitions of "affected party" and "controlling entity". Adds items that must be contained in an application for a license under the Act. Provides that in determining whether to grant or renew a license, the Department of Public Health shall consider the record of the applicant and others. Provides for a public hearing in connection with a license application. Authorizes the Director of Public health to impose conditions on probationary or other licenses. Makes changes concerning a transfer of ownership, denial of a license application, and other matters. Effective immediately.

LRB096 03858 DRJ 13892 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 Care Act is amended by changing
5 Sections 1-106, 3-103, 3-108, 3-109, 3-112, 3-116, 3-117,
6 3-118, 3-207, 3-208, 3-209, 3-213, 3-304.1, and 3-704 and by
7 adding Sections 1-105.5, 1-108.5, 3-103.5, 3-103.10, and
8 3-109.5 as follows:

9 (210 ILCS 45/1-105.5 new)

10 Sec. 1-105.5. Affected party. "Affected party" means any
11 resident in a facility that is the subject of a licensing
12 application, any immediate family, guardian, or representative
13 of such a resident, any person performing work in a facility
14 that is the subject of a licensing application, any entity that
15 represents persons performing work in a long-term care facility
16 or facilities in this or any other State, and any consumer
17 organization that engages in advocacy or legal representation
18 on behalf of residents and their immediate families.

19 (210 ILCS 45/1-106) (from Ch. 111 1/2, par. 4151-106)

20 Sec. 1-106. Affiliate. "Affiliate" means: any person,
21 entity, or facility with which a facility, applicant, or
22 licensee is under common ultimate control; any person, entity,

1 or facility over which a facility, applicant, or licensee, as
2 applicable, exercises control, either directly or indirectly
3 through any number of intermediate persons or entities; and any
4 person, entity, or facility in which a facility, applicant, or
5 licensee has any ownership interest, whether that interest is
6 held directly or indirectly through any number of intermediate
7 persons or entities.

8 "Affiliate" also means:

9 (1) With respect to a partnership, each partner thereof.

10 (2) With respect to a corporation, each officer, director
11 and stockholder thereof.

12 (2.5) With respect to a company, each officer, director,
13 member, and manager thereof.

14 (3) With respect to a natural person: any person related in
15 the first degree of kinship to that person; each partnership
16 and each partner thereof of which that person or any affiliate
17 of that person is a partner; and each corporation in which that
18 person or any affiliate of that person is an officer, director
19 or stockholder.

20 Two or more persons, entities, facilities, applicants, or
21 licensees are "affiliated" if they are affiliates with respect
22 to each other.

23 In cases of a transfer of ownership, "affiliate" or
24 "affiliated" includes any person or entity that will be an
25 affiliate of the facility, applicant, or licensee, as
26 applicable, following the proposed transaction.

1 (Source: P.A. 81-223.)

2 (210 ILCS 45/1-108.5 new)

3 Sec. 1-108.5. Controlling entity. "Controlling entity"

4 means:

5 (1) Any person or entity that exercises or has the
6 authority, whether by contract, by virtue of an ownership
7 interest, or otherwise, to direct or manage any aspect of
8 the operation, management, or policy-setting for a
9 facility, whether that control is held or exercised
10 directly or indirectly through any number of employees,
11 agents, or intermediate entities.

12 (2) Any person or entity that owns a partnership share
13 in a facility, licensee, or applicant, as applicable,
14 whether that share is held directly or indirectly through
15 any number of intermediate persons or entities.

16 (3) Any person or entity that owns an interest of 5% or
17 more in a facility, licensee, or applicant, as applicable,
18 whether that interest is held directly or indirectly
19 through any number of intermediate persons or entities, and
20 whether that interest is held in the form of an equity
21 share or shares, a membership interest, or in any other
22 form or vehicle.

23 (4) Any person or entity that owns any partnership
24 share or any interest of 5% or more in any other
25 controlling entity, in the real estate or building on or in

1 which a facility is located, or in any lease or sublease of
2 the real estate, building, or other property comprising a
3 facility, whether that share or interest is held directly
4 or indirectly through any number of intermediate persons or
5 entities.

6 (5) Any person or entity that provides financing for
7 the facility or that owns an interest in a mortgage, deed
8 of trust, note, or other obligation secured in whole or in
9 part by the facility or by any property or assets thereof,
10 whether that interest is held directly or indirectly
11 through any number of intermediate persons or entities,
12 provided that the value of the interest owned by the person
13 or entity is equal to or exceeds 5% of the value of the
14 property or assets used as security.

15 (6) Any person or entity that provides or is expected
16 to provide services of any type to the facility and that is
17 related in any way to the facility, any affiliate, or any
18 controlling entity, by means including, but not limited to,
19 common directors, officers, executives, partners, members
20 or members or some degree of common ownership or control,
21 whether direct or indirect.

22 "Controlling entity" does not include an individual State
23 official or State employee or a member or employee of the
24 governing body of a political subdivision of the State that
25 operates one or more facilities, unless the individual is also
26 an officer or director of a facility, receives any remuneration

1 from a facility, or owns any of the beneficial interests not
2 excluded in this definition.

3 In cases of a transfer of ownership, "controlling entity"
4 includes any person or entity that will be a controlling entity
5 following the proposed transaction.

6 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

7 Sec. 3-103. Application for license. The procedure for
8 obtaining a valid license shall be as follows:

9 (1) Application to operate a facility shall be made to
10 the Department on forms furnished by the Department.

11 (2) All license applications shall be accompanied with
12 an application fee. The fee for an annual license shall be
13 \$995. Facilities that pay a fee or assessment pursuant to
14 Article V-C of the Illinois Public Aid Code shall be exempt
15 from the license fee imposed under this item (2). The fee
16 for a 2-year license shall be double the fee for the annual
17 license set forth in the preceding sentence. The fees
18 collected shall be deposited with the State Treasurer into
19 the Long Term Care Monitor/Receiver Fund, which has been
20 created as a special fund in the State treasury. This
21 special fund is to be used by the Department for expenses
22 related to the appointment of monitors and receivers as
23 contained in Sections 3-501 through 3-517 of this Act and
24 for implementation of the Abuse Prevention Review Team Act.
25 At the end of each fiscal year, any funds in excess of

1 \$1,000,000 held in the Long Term Care Monitor/Receiver Fund
2 shall be deposited in the State's General Revenue Fund. The
3 application shall be under oath and the submission of false
4 or misleading information shall be a Class A misdemeanor.
5 The application shall contain the following information:

6 (a) The name and address of the applicant if an
7 individual, and if a firm, partnership, or
8 association, of every member thereof, and in the case
9 of a corporation, the name and address thereof and of
10 its officers and its registered agent, and in the case
11 of a unit of local government, the name and address of
12 its chief executive officer;

13 (b) The name and location of the facility for which
14 a license is sought;

15 (c) The name of the person or persons under whose
16 management or supervision the facility will be
17 conducted;

18 (d) The name and professional background of all key
19 personnel at the facility, as that term is defined by
20 the Department in regulations;

21 (e) The name of each affiliate of the facility and
22 each affiliate of the applicant and proposed licensee,
23 together with a description of each affiliate's
24 relationship to the facility, to the applicant and
25 proposed licensee, and to other affiliates, if
26 applicable, and a list of any facilities, whether in

1 this State or in any other state, in which any
2 affiliate has held a direct or indirect partnership
3 interest or a direct or indirect ownership interest of
4 5% or more during the previous 5 years;

5 (f) The name of each controlling entity for the
6 facility and each controlling entity for the applicant
7 and proposed licensee, together with a description of
8 each controlling entity's relationship to the
9 facility, to the applicant and proposed licensee, and
10 to other controlling entities, if applicable, and a
11 list of any facilities, whether in this State or in any
12 other state, in which any controlling entity has held a
13 direct or indirect partnership interest or a direct or
14 indirect ownership interest of 5% or more during the
15 previous 5 years;

16 (g) Three years of detailed past financial data for
17 the facility and for the applicant and proposed
18 licensee, including, but not limited to, separate line
19 items for nurse staffing and for employee benefit
20 costs;

21 (h) Three years of detailed financial projections
22 for the facility and for the applicant and proposed
23 licensee, including, but not limited to, separate line
24 items for nurse and for nursing assistant staffing and
25 for employee benefit costs, together with an
26 explanation of all assumptions made, an analysis

1 comparing the past and projected data, and an
2 explanation of any significant changes or
3 discrepancies between the past and projected data;

4 (i) ~~(d)~~ The number and type of residents for which
5 maintenance, personal care, or nursing is to be
6 provided; and

7 (j) ~~(e)~~ Such information relating to the number,
8 experience, and training of the employees of the
9 facility, any management agreements for the operation
10 of the facility, and of the moral character of the
11 applicant and employees as the Department may deem
12 necessary;

13 (k) For the previous 3 years, all inspection
14 reports and complaint investigation reports for the
15 facility, for any other facilities in which a
16 controlling entity has held a direct or indirect
17 partnership interest or a direct or indirect ownership
18 interest of 5% or more during the previous 3 years, and
19 for any affiliated facilities;

20 (l) For the previous 3 years, average annual nurse
21 staffing hours per resident per day (including
22 information with respect to agency and contract
23 staff), determined based on payroll data, with the
24 actual payroll data submitted only upon request,
25 unless such data is not available, in which case
26 staffing data as reported on the U.S. Department of

1 Health and Human Services "Nursing Home Compare"
2 website may be substituted, and broken down by staff
3 classification (RN, LVN or LPN, and C.N.A.) and between
4 employee, agency, and contract staff, for the facility
5 and for any other facilities in which a controlling
6 entity has held a direct or indirect partnership share
7 or a direct or indirect ownership interest of 5% or
8 more during the previous 3 years, and for any
9 affiliated facilities, unless such data is not
10 available;

11 (m) Three years of past data and 3 years of
12 projected data regarding payer mix in terms of
13 Medicare, Medicaid, private pay, or any other payment
14 method;

15 (n) Data regarding staff turnover during the
16 preceding 3 years and any projections related to staff
17 turnover;

18 (o) Any operational covenants required by any
19 entities providing financing for the facility or for a
20 change-of-ownership transaction;

21 (p) Service agreements entered into with or
22 expected to be entered into with, or the likely or
23 expected terms of agreements to be entered into with,
24 persons or entities identified pursuant to paragraph
25 (6) of Section 1-108.5 and subdivision (2)(f) of this
26 Section;

1 (g) In case of a transfer of ownership, and in
2 other cases when determined by the Department to be
3 appropriate, a list identifying and providing a
4 description of all of the following for the facility,
5 for any other facilities in which a person or entity
6 that will be a controlling entity following the
7 transfer has held a direct or indirect partnership
8 share or direct or indirect ownership interest of 5% or
9 more during the previous 5 years, and for any
10 affiliated facilities that will be affiliated
11 following the transfer, for the previous 5 years:

12 (i) bankruptcies;

13 (ii) facility closures, whether voluntary or
14 involuntary;

15 (iii) receiver appointments;

16 (iv) denials, suspensions, or revocations of
17 any license, permit, or certificate of need;

18 (v) injunctions issued in proceedings against
19 the facility initiated by a federal or State
20 regulatory agency;

21 (vi) audits (not including internal audits),
22 investigations, or fines related to the receipt or
23 use of federal or state funds; and

24 (vii) administrative, civil, or criminal
25 proceedings involving the facility related to
26 quality of care, residents' rights, professional

1 negligence, or wrongful death, that resulted in a
2 final judgment or order or a judgment or order
3 currently on appeal;

4 (r) Any forward-looking plans or projections
5 (including, in case of a transfer of ownership, any
6 plans or projections prepared in connection with the
7 transaction) that relate to hours of care per resident
8 per day, number of staff, occupancy rates, payer mix,
9 or any other criteria that could affect quality of care
10 as determined by the Department in regulations,
11 together with an explanation for any assumptions made
12 in preparing the projections; and

13 (s) In case of a transfer of ownership, a detailed
14 description of the proposed transaction, including,
15 without limitation:

16 (i) the sources and uses of funds for the
17 transaction;

18 (ii) interest rates to be paid on any debt
19 incurred for purposes of completing the
20 transaction;

21 (iii) management or other fees related to the
22 transaction;

23 (iv) the projected capital structure of the
24 facility and any related entities following the
25 transaction;

26 (v) any strategic alternatives considered in

1 connection with the transaction;

2 (vi) industry analyses considered in
3 connection with the transaction;

4 (vii) any operational covenants required by
5 any entities providing financing for the
6 transaction; and

7 (viii) any leases to be entered into in
8 connection with the transaction.

9 If any of the information required in connection with
10 an application cannot be submitted because a facility or
11 applicant has not existed for the entire relevant period of
12 time, data shall be submitted for as many years as the
13 facility, applicant, or proposed licensee, as applicable,
14 has been in existence.

15 (3) Each initial application shall be accompanied by a
16 financial statement setting forth the financial condition
17 of the applicant and by a statement from the unit of local
18 government having zoning jurisdiction over the facility's
19 location stating that the location of the facility is not
20 in violation of a zoning ordinance. An initial application
21 for a new facility shall be accompanied by a permit as
22 required by the "Illinois Health Facilities Planning Act".
23 After the application is approved, the applicant shall
24 advise the Department every 6 months of any changes in the
25 information originally provided in the application.

26 (4) The Department may exercise its discretion to

1 require that the applicant provide any other information
2 that the Department deems ~~Other information~~ necessary to
3 determine the identity and qualifications of an applicant
4 to operate a facility in accordance with this Act or to
5 ensure that licensure review adequately protects the
6 health, welfare, and safety of residents and assures
7 accountability as stated in Section 3-101. The Department
8 may promulgate regulations requiring that certain
9 additional information be provided in every case, or for
10 certain types of applications, or the Department may
11 require additional information in connection with any
12 individual application if necessary for the reasons
13 described above. Any additional information required by
14 the Department shall be provided promptly by the applicant
15 and in compliance with any deadline set by the Department.

16 (5) Upon submission of a license application, the
17 applicant shall post notice of its application prominently
18 in each facility affected by the application. The notice
19 shall be posted within 5 days of submission of the
20 application in an area used frequently by facility
21 residents, and the notice shall state that an application
22 for license has been submitted, shall identify the
23 applicant and proposed licensee and the facility affected,
24 shall describe briefly the nature of the application, shall
25 provide the World Wide Web address for the Department, and
26 shall state that a copy of the application may be requested

1 from the Department by any resident in the facility, by any
2 immediate family, guardian, or representative of such a
3 resident, by any person performing work in the facility, by
4 any entity that represents persons performing work in a
5 long-term care facility or facilities in this or in any
6 other State, and by any consumer organization that engages
7 in advocacy or legal representation on behalf of residents
8 and their immediate families.

9 (6) Upon request, the Department shall provide a copy
10 of a license application, any information submitted in
11 support of such an application, and any other documents
12 related to the application, to any affected party who has
13 requested the information. The Department shall provide
14 the copy within 10 days of the date the request is
15 received. The affected party shall pay all costs of
16 photocopying and transmission. Notwithstanding any other
17 provision of law, the applicant is entitled to a complete
18 unredacted copy of the application, except that materials
19 may be redacted to protect the privacy of individual
20 nursing home residents or the social security number of any
21 individual. ~~shall be included in the application as~~
22 ~~required by the Department in regulations.~~

23 (Source: P.A. 93-32, eff. 7-1-03; 93-841, eff. 7-30-04; 94-931,
24 eff. 6-26-06.)

25 (210 ILCS 45/3-103.5 new)

1 Sec. 3-103.5. Facility operation.

2 (a) In determining whether to grant or renew a license
3 under this Act, the Department shall also consider the record
4 of the applicant, of any affiliate of the applicant, and of any
5 controlling entity in operating facilities in this State and in
6 other states. If the applicant, an affiliate, or a controlling
7 entity has contracted with another individual or entity to
8 manage a facility in this State or in another state, the
9 Department shall consider the record of any such individual or
10 entity.

11 (b) If a licensee or applicant enters into or intends to
12 enter into an agreement with another person or entity for the
13 management of the facility for which a license is sought under
14 this Act, that agreement must be submitted to the Department,
15 and the Department must approve that agreement as a condition
16 of granting or renewing a license under this Act. The
17 Department shall adopt rules that establish standards for
18 approving such agreements.

19 (c) If a licensee or applicant enters into or intends to
20 enter into an agreement with another person or entity for the
21 management of a facility, the latter person or entity shall be
22 deemed to be the licensee's agent for purposes of liability for
23 the quality of care provided in the facility.

24 (210 ILCS 45/3-103.10 new)

25 Sec. 3-103.10. Public hearing.

1 (a) Any affected party may request a public hearing on a
2 license application. Such a request must be submitted to the
3 Department within 20 days of notice of the application having
4 been posted in the facility or facilities subject to the
5 application or within 20 days of notice of the application
6 having been posted on the Department's World Wide Web site,
7 whichever is later.

8 (b) If a public hearing is requested, it shall be held at
9 least 30 days but no more than 50 days after the date of the
10 request or after the date that a copy of the application was
11 provided to the affected party, if requested, whichever is
12 later. The parties may take discovery as permitted by the rules
13 governing discovery in civil litigation in this State,
14 beginning as soon as the request for a hearing is submitted.
15 The hearing shall otherwise be conducted in accordance with the
16 procedures stated in Sections 3-704 through 3-713, except that
17 the hearing shall conclude within 50 days of the date of the
18 request for a hearing or after the date that a copy of the
19 application was provided to the affected party, if requested,
20 whichever is later, and the Director's decision following a
21 hearing under this Section shall be issued within 30 days of
22 completion of the hearing.

23 (c) In case of a transfer of ownership, an affected party
24 may request a public hearing to take place under subsection (b)
25 before a decision whether to issue a probationary license is
26 made, or may request that a public hearing take place following

1 the inspection described in Section 3-116, or both. The parties
2 may take discovery as permitted by the rules governing
3 discovery in civil litigation in this State, beginning as soon
4 as the request for a hearing is submitted. The hearing shall
5 otherwise be conducted in accordance with the procedures stated
6 in Sections 3-704 through 3-713, except that if the hearing is
7 one requested to take place following the inspection described
8 in Section 3-116, the hearing shall conclude at least 30 days
9 before the expiration of the probationary license and the
10 Director's decision following a hearing shall be issued at
11 least 5 days before the expiration of the probationary license.

12 (d) Following a hearing under subsection (b) or subsection
13 (c), and before the Director's decision, the parties may submit
14 briefs to the Department.

15 (e) Any affected party who appeared for the hearing may
16 seek judicial review under Section 3-713 and under the
17 Administrative Review Law.

18 (f) A public hearing need not be held under this Section in
19 case of a transfer of ownership if 3 or fewer facilities in
20 total, located in any state or states, will be affected by the
21 entire transaction at issue, including all related
22 transactions. In such cases, written comments may be submitted
23 by any affected party and shall be considered by the Department
24 before its decision is made.

1 Sec. 3-108. Cooperation with State agencies and officers.
2 The Department shall coordinate the functions within State
3 government affecting facilities licensed under this Act and
4 shall cooperate with other State agencies which establish
5 standards or requirements for facilities to assure necessary,
6 equitable, and consistent State supervision of licensees
7 without unnecessary duplication of survey, evaluation, and
8 consultation services or complaint investigations. The
9 Department shall cooperate with the Department of Human
10 Services in regard to facilities containing more than 20% of
11 residents for whom the Department of Human Services has
12 mandated follow-up responsibilities under the Mental Health
13 and Developmental Disabilities Administrative Act. The
14 Department shall cooperate with the Secretary of State to
15 ensure necessary, equitable, and consistent State supervision
16 of licensees and other individuals or entities with a financial
17 interest in the ownership or operation of a facility without
18 unnecessary duplication of survey, evaluation, and
19 consultation services or complaint investigations.

20 The Department shall cooperate with the Department of
21 Healthcare and Family Services in regard to facilities where
22 recipients of public aid are residents.

23 The Department shall immediately refer to the Department of
24 Professional Regulation for investigation any credible
25 evidence of which it has knowledge that an individual licensed
26 by that Department has violated this Act or any rule issued

1 under this Act.

2 The Department shall enter into agreements with other State
3 Departments, agencies or commissions to effectuate the purpose
4 of this Section.

5 (Source: P.A. 95-331, eff. 8-21-07.)

6 (210 ILCS 45/3-109) (from Ch. 111 1/2, par. 4153-109)

7 Sec. 3-109. Upon receipt and review of an application for a
8 license made under this Article and inspection of the applicant
9 facility under this Article, the Director may ~~shall~~ issue a
10 license if ~~he finds~~:

11 (1) the Director finds that the ~~individual~~ applicant,
12 ~~or the corporation, partnership or other entity if the~~
13 ~~applicant is not an individual,~~ is a person fit, willing,
14 and able ~~responsible and suitable~~ to operate or to direct
15 or participate in the operation of a facility in a manner
16 that will provide a proper standard of health care service
17 for the community, by virtue of financial capacity,
18 appropriate business or professional experience, a record
19 of compliance with lawful orders of the Department, and
20 lack of revocation of a license during the previous 5
21 years;

22 (1.5) the Director finds that the person or persons
23 under whose management or supervision the facility will be
24 conducted, and the key personnel at the facility, have
25 appropriate experience in managing a facility of the type

1 for which a license is sought and are fit, willing, and
2 able to operate or to direct or participate in the
3 operation of a facility in a manner that will provide a
4 proper standard of health care service for the community,
5 by virtue of their experience, past records of compliance
6 with lawful orders of the Department, and past performance
7 at the facility or other facilities of the same type;

8 (2) the Director finds that the facility is under the
9 supervision of an administrator who is licensed, if
10 required, under the Nursing Home Administrators Licensing
11 and Disciplinary Act, as now or hereafter amended; ~~and~~

12 (2.5) the Director approves the management agreement,
13 if any, under subsection (c) of Section 3-103.5;

14 (3) the Director finds that the facility is in
15 substantial compliance with this Act, and such other
16 requirements for a license as the Department by rule may
17 establish under this Act;

18 (4) the Director finds, having considered all
19 information submitted in connection with the application,
20 that the facility is financially and otherwise able, and
21 intends, to continue in substantial compliance with all of
22 the requirements of this Act and any regulations
23 promulgated under this Act; and

24 (5) the Director finds that all other requirements for
25 a license established by the Department have been
26 satisfied.

1 (Source: P.A. 95-331, eff. 8-21-07.)

2 (210 ILCS 45/3-109.5 new)

3 Sec. 3-109.5. Conditions.

4 (a) In addition to the provision for conditional licenses
5 in Section 3-311, the Director may impose conditions on a
6 probationary license or on a license issued pursuant to Section
7 3-109 in any case in which the Department determines it to be
8 appropriate to ensure that licensure review adequately
9 protects the health, welfare, and safety of residents and
10 assures accountability as stated in Section 3-101. Conditions
11 may include, but are not limited to, requirements that the
12 facility provide additional financial or other information
13 during the period of licensure, that the facility provide the
14 Department with certain information regarding quality of care
15 or staffing, that the facility submit to additional,
16 unannounced inspections, or that the facility meet or maintain
17 certain requirements regarding quality of care or staffing
18 during the period of licensure.

19 (b) Any condition imposed must relate to one of the
20 purposes for licensure as stated in Section 3-101 or to at
21 least one of the requirements or standards for licensure as
22 stated in this Act or in regulations promulgated by the
23 Department pursuant to this Act. Conditions may be imposed for
24 no longer than the term of the license. Violation of any
25 condition imposed is a violation of this Act and conditions may

1 be enforced through the mechanisms in Part 3 of this Article.

2 (c) The Department shall provide notice in writing to the
3 applicant, and to any affected party who has requested notice,
4 immediately upon making the decision to impose any conditions
5 on licensure. The Department's notice shall include a clear and
6 concise statement of the conditions, the reasons for their
7 imposition, and notice of the opportunity for a hearing. If the
8 applicant or an affected party desires to contest the
9 conditions, written notice shall be provided to the Department
10 of a request for a hearing within 10 days after receipt of the
11 notice of conditions, except that a hearing need not be held if
12 requested by an affected party in case of a transfer of
13 ownership if 3 or fewer facilities in total, located in any
14 state or states, will be affected by the entire transaction at
15 issue, including all related transactions. If 3 or fewer
16 facilities will be affected, written comments may be submitted
17 by any affected party and shall be considered by the Department
18 in making its final decision.

19 (d) If a hearing is requested under subsection (c), the
20 applicant and any affected parties may participate, and the
21 parties may take discovery as permitted by the rules governing
22 discovery in civil litigation in this State. The hearing shall
23 otherwise be conducted in accordance with the procedures stated
24 in Sections 3-704 through 3-713. Any affected party who
25 appeared for the hearing may seek judicial review under Section
26 3-713 and under the Administrative Review Law.

1 (210 ILCS 45/3-112) (from Ch. 111 1/2, par. 4153-112)

2 Sec. 3-112. Transfer of ownership or other interest;
3 license.

4 (a) Whenever there is a transfer of ownership in a facility
5 or in a licensee ownership of a facility is transferred from
6 the person named in the license to any other person, the
7 transferee must obtain a new probationary license. The
8 transferee shall notify the Department of the transfer and
9 apply for a new license at least 120 ~~30~~ days prior to final
10 transfer. The transferee must obtain its new probationary
11 license before the transfer is completed, and the existing
12 license becomes null and void immediately upon transfer.

13 (b) The transferor shall notify the Department at least 120
14 ~~30~~ days prior to final transfer. The transferor shall remain
15 responsible for the operation of the facility until such time
16 as a license is issued to the transferee, provided that
17 nothing in this paragraph shall be understood to relieve the
18 transferee of its obligation to obtain a new probationary
19 license before the transfer may be completed.

20 (c) The Department shall adopt regulations defining
21 "transfer of ownership" for purposes of this Section. At a
22 minimum, "transfer of ownership" shall include any situation in
23 which the right to control a facility or a licensee is to be
24 transferred, as well as any situation in which a majority or
25 controlling minority interest in a facility or in a licensee is

1 to be transferred, whether that interest is held directly or
2 indirectly through any number of intermediary persons or
3 entities.

4 (d) Whenever there is a transfer of ownership in a facility
5 or in a licensee that does not meet the threshold set by the
6 Department for a transfer of ownership under subsection (c),
7 the transferor or transferee shall notify the Department of the
8 transfer within 14 days after its occurrence. The notification
9 shall identify by name and address the transferor and the
10 transferee and shall specify the nature and amount of the
11 transferred interest.

12 (e) A monetary penalty may be imposed for any violation of
13 this Section, with the penalty to be at least \$25,000 per
14 facility per day that the Section is violated.

15 (Source: P.A. 81-223.)

16 (210 ILCS 45/3-116) (from Ch. 111 1/2, par. 4153-116)

17 Sec. 3-116. If the applicant has not been previously
18 licensed, in the case of a transfer of ownership under Section
19 3-112, or if the facility is not in operation at the time
20 application is made, the Department shall issue only a
21 probationary license. A probationary license shall be valid for
22 120 days unless sooner suspended or revoked under Section
23 3-119. Within 30 days prior to the termination of a
24 probationary license, and at least 40 days but not more than 60
25 days prior to the termination of a probationary license in

1 transfer of ownership cases, the Department shall fully and
2 completely inspect the facility. Within 10 days of the
3 inspection, the Department shall provide a copy of the report
4 following that inspection to any affected party who has
5 requested a hearing or a copy of the licensing application. If,
6 after considering the evidence presented at any hearing, if one
7 was held, the Director determines that ~~and, if~~ the facility
8 meets the applicable requirements for licensure, the
9 Department shall issue a license under Section 3-109. If the
10 Department finds that the facility does not meet the
11 requirements for licensure but has made substantial progress
12 toward meeting those requirements, the license may be renewed
13 once for a period not to exceed 120 days from the expiration
14 date of the initial probationary license. In that case, an
15 affected party may request that a hearing under Section
16 3-103.10 is held before expiration of the renewal period and
17 before any final decision is made whether to issue a license
18 under Section 3-109.

19 (Source: P.A. 81-223.)

20 (210 ILCS 45/3-117) (from Ch. 111 1/2, par. 4153-117)

21 Sec. 3-117. An application for a license may be denied for
22 any of the following reasons:

23 (1) Failure to meet any of the minimum standards set
24 forth by this Act or by rules and regulations promulgated
25 by the Department under this Act.

1 (2) Conviction of the applicant, or if the applicant is
2 a firm, partnership or association, of any of its members,
3 or if a corporation, the conviction of the corporation or
4 any of its officers or stockholders, or of the person
5 designated to manage or supervise the facility, of a
6 felony, or of 2 or more misdemeanors involving moral
7 turpitude, during the previous 5 years as shown by a
8 certified copy of the record of the court of conviction.

9 (3) Personnel insufficient in number or unqualified by
10 training or experience to properly care for the proposed
11 number and type of residents.

12 (4) Insufficient financial or other resources to
13 operate and conduct the facility in accordance with
14 standards promulgated by the Department under this Act.

15 (5) Revocation, rescission, cancellation, termination,
16 involuntary suspension, denial, or refused renewal of a
17 facility license, permit, or certificate of need during the
18 previous 5 years, if such prior license was issued to the
19 individual applicant, a controlling entity, an ~~owner or~~
20 ~~controlling combination of owners of the applicant; or any~~
21 affiliate of the individual applicant or any controlling
22 person, or any affiliated entity ~~owner of the applicant and~~
23 ~~such individual applicant, controlling owner of the~~
24 ~~applicant or affiliate of the applicant was a controlling~~
25 ~~owner of the prior license; provided, however, that before~~
26 denying ~~the denial of~~ an application for a license pursuant

1 to this subsection, the Department must consider whether ~~be~~
2 ~~supported by evidence that~~ such prior revocation,
3 rescission, cancellation, termination, involuntary
4 suspension, denial, or refused renewal renders the
5 applicant unqualified or incapable of meeting or
6 maintaining a facility in accordance with the standards and
7 rules promulgated by the Department under this Act.

8 (6) That the facility is not under the direct
9 supervision of a full-time administrator, as defined by
10 regulation, who is licensed, if required, under the Nursing
11 Home Administrators Licensing and Disciplinary Act.

12 (7) The applicant or an affiliate or controlling entity
13 has demonstrated a history of noncompliance, as defined by
14 the Department in regulations promulgated pursuant to this
15 Act, with the standards for licensure of long-term care
16 facilities of any state in which the applicant or
17 controlling person has or has had long-term care
18 facilities, or with federal standards for certification of
19 long-term care facilities.

20 (8) The applicant or an affiliate or controlling
21 entity, in current and prior ownership, operation, or
22 management of long-term care facilities, has not complied
23 with all lawful orders of suspension, receivership,
24 temporary management, or administrative penalty issued by
25 the Department or by other authorities with similar
26 responsibilities in other states or by the federal Centers

1 for Medicare and Medicaid Services.

2 (Source: P.A. 95-331, eff. 8-21-07.)

3 (210 ILCS 45/3-118) (from Ch. 111 1/2, par. 4153-118)

4 Sec. 3-118. (a) Immediately upon the denial of any
5 application or reapplication for a license under this Article,
6 the Department shall notify the applicant in writing. Notice of
7 denial shall include a clear and concise statement of the
8 violations of Section 3-117 on which denial is based and notice
9 of the opportunity for a hearing under Section 3-703. If the
10 applicant desires to contest the denial of a license, it shall
11 provide written notice to the Department of a request for a
12 hearing within 10 days after receipt of the notice of denial.
13 The Department shall commence the hearing under Section 3-703.

14 (b) Upon the granting, granting with conditions, or denial
15 of any application or reapplication for a license under this
16 Article, the Department shall post notice of its decision on
17 the World Wide Web within 10 days. The Department shall also
18 immediately provide written notice to any affected party who
19 requested a public hearing or a copy of the application. This
20 written notice shall inform the affected party of the
21 opportunity for a hearing. If the affected party desires to
22 contest the Department's decision, it shall provide written
23 notice to the Department of a request for a hearing within 10
24 days after receipt of the notice of the Department's decision,
25 except that a hearing may not be requested by an affected party

1 in case of a transfer of ownership if 3 or fewer facilities in
2 total, located in any state or states, will be affected by the
3 entire transaction at issue, including all related
4 transactions. If 3 or fewer facilities will be affected,
5 written comments may be submitted by any affected party and
6 shall be considered by the Department in making its final
7 decision.

8 (c) If a hearing is requested under subsection (b), the
9 applicant and any affected parties may participate, and the
10 parties may take discovery as permitted by the rules governing
11 discovery in civil litigation in this State. The hearing shall
12 otherwise be conducted in accordance with the procedures stated
13 in Sections 3-704 through 3-713. The Department may stay its
14 initial decision upon request for a hearing and upon good cause
15 shown, as determined by the Department. Any affected party who
16 appeared for the hearing may seek judicial review under Section
17 3-713 and under the Administrative Review Law.

18 (Source: P.A. 81-223.)

19 (210 ILCS 45/3-207) (from Ch. 111 1/2, par. 4153-207)

20 Sec. 3-207. Statement of ownership.

21 (a) As a condition of the issuance or renewal of the
22 license of any facility, the applicant shall file a statement
23 of ownership. The applicant shall update the information
24 required in the statement of ownership within 10 days of any
25 change.

1 (b) The statement of ownership shall include the following:

2 (1) The name, address, Social Security Number, telephone
3 number, occupation or business activity, business address, and
4 business telephone number of the person or entity who is the
5 owner of the facility, of each affiliate of the facility,
6 licensee, or applicant, as applicable, and of each controlling
7 entity for the facility. ~~and every person who owns the building~~
8 ~~in which the facility is located, if other than the owner of~~
9 ~~the facility, which is the subject of the application or~~
10 ~~license; and if the owner is a partnership or corporation, the~~
11 ~~name of every partner and stockholder of the owner;~~

12 (1.5) The name, address, telephone number, occupation or
13 business activity, business address, and business telephone
14 number of the person who manages the facility that is the
15 subject of the application or license and every individual or
16 entity that has any financial interest in the operation of the
17 facility, if the owner of the facility does not manage the
18 facility.

19 (2) The name and address of any facility, wherever located,
20 any financial interest in which is owned by the applicant, or
21 by an affiliate or controlling entity of the applicant or
22 facility, if the facility were required to be licensed if it
23 were located in this State. †

24 (3) Other information necessary to determine the identity
25 and qualifications of an applicant or licensee to operate a
26 facility in accordance with this Act as required by the

1 Department in regulations.

2 (c) The information in the statement of ownership shall be
3 public information and shall be available from the Department.

4 (Source: P.A. 85-1183.)

5 (210 ILCS 45/3-208) (from Ch. 111 1/2, par. 4153-208)

6 Sec. 3-208. Financial statement.

7 (a) Each licensee shall file annually, or more often as the
8 Director shall by rule prescribe, an attested financial
9 statement. The rules shall specify the circumstances under
10 which a licensee must file an attested financial statement more
11 frequently than annually as well as the information that must
12 be included in any such statement and the form and manner of
13 filing the statement. The Director may require a licensee to
14 file such a statement as frequently as quarterly. The Director
15 may order an audited financial statement of a particular
16 facility by an auditor of the Director's choice, provided the
17 cost of such audit is paid by the Department.

18 (b) No public funds shall be expended for the maintenance
19 of any resident in a facility which has failed to file the
20 financial statement required under this Section and no public
21 funds shall be paid to or on behalf of a facility which has
22 failed to file a statement.

23 (c) The Director of Public Health and the Director of
24 Healthcare and Family Services shall promulgate under Sections
25 3-801 and 3-802, one set of regulations for the filing of these

1 financial statements, and shall provide in these regulations
2 for forms, required information, intervals and dates of filing
3 and such other provisions as they may deem necessary.

4 (d) The Director of Public Health and the Director of
5 Healthcare and Family Services shall seek the advice and
6 comments of other State and federal agencies which require the
7 submission of financial data from facilities licensed under
8 this Act and shall incorporate the information requirements of
9 these agencies so as to impose the least possible burden on
10 licensees. No other State agency may require submission of
11 financial data except as expressly authorized by law or as
12 necessary to meet requirements of federal statutes or
13 regulations. Information obtained under this Section shall be
14 made available, upon request, by the Department to any other
15 State agency or legislative commission to which such
16 information is necessary for investigations or required for the
17 purposes of State or federal law or regulation.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 (210 ILCS 45/3-209) (from Ch. 111 1/2, par. 4153-209)

20 Sec. 3-209. Every facility shall conspicuously post for
21 display in an area of its offices accessible to residents,
22 employees, and visitors the following:

23 (1) Its current license;

24 (1.5) The information required under subdivisions (b)(1),
25 (b)(1.5), and (b)(2) of Section 3-207;

1 (2) A description, provided by the Department, of complaint
2 procedures established under this Act and the name, address,
3 and telephone number of a person authorized by the Department
4 to receive complaints;

5 (3) A copy of any order pertaining to the facility issued
6 by the Department or a court; and

7 (4) A list of the material available for public inspection
8 under Section 3-210.

9 (Source: P.A. 81-1349.)

10 (210 ILCS 45/3-213) (from Ch. 111 1/2, par. 4153-213)

11 Sec. 3-213. The Department shall require periodic reports
12 and shall have access to and may reproduce or photocopy at its
13 cost any books, records, and other documents maintained by the
14 facility or a controlling entity facility, to the extent
15 necessary to carry out this Act and the rules promulgated under
16 this Act. The Department shall not divulge or disclose the
17 contents of a record under this Section in violation of Section
18 2-206 or as otherwise prohibited by this Act.

19 (Source: P.A. 83-1530.)

20 (210 ILCS 45/3-304.1)

21 Sec. 3-304.1. Public computer access to information.

22 (a) The Department must make information regarding nursing
23 homes in the State available to the public in electronic form
24 on the World Wide Web, including all of the following

1 information:

2 (1) who regulates nursing homes;

3 (2) information in the possession of the Department
4 that is listed in Sections 3-210 and 3-304;

5 (3) deficiencies and plans of correction;

6 (4) enforcement remedies;

7 (5) penalty letters;

8 (6) designation of penalty monies;

9 (7) the U.S. Department of Health and Human Services'
10 Health Care Financing Administration special projects or
11 federally required inspections;

12 (8) advisory standards;

13 (9) deficiency-free surveys; ~~and~~

14 (10) enforcement actions and enforcement summaries;

15 (11) a list of licensure applications submitted to the
16 Department, together with a short description of the
17 applicant, the nature of the application, and its current
18 status, with the list to be updated within 10 days of the
19 submission of any application, the submission of any
20 additional information, or any change in status; and

21 (12) an explanation of the process for submitting a
22 complaint under Section 3-702, as well as any forms that
23 may be used to submit such a complaint.

24 (b) No fee or other charge may be imposed by the Department
25 as a condition of accessing the information.

26 (c) The electronic public access provided through the World

1 Wide Web shall be in addition to any other electronic or print
2 distribution of the information.

3 (d) Except as otherwise stated, the ~~The~~ information shall
4 be made available as provided in this Section in the shortest
5 practicable time after it is received by the Department
6 ~~publicly available in any other form.~~

7 (Source: P.A. 91-290, eff. 1-1-00.)

8 (210 ILCS 45/3-704) (from Ch. 111 1/2, par. 4153-704)

9 Sec. 3-704. A request for a hearing by aggrieved persons or
10 an affected party shall be taken to the Department as follows:

11 (a) Upon the receipt of a request in writing for a hearing,
12 the Director or a person designated in writing by the Director
13 to act as a hearing officer shall conduct a hearing to review
14 the decision.

15 (b) Before the hearing is held notice of the hearing shall
16 be sent by the Department to the person making the request for
17 the hearing and to the person making the decision which is
18 being reviewed. In the notice the Department shall specify the
19 date, time and place of the hearing which shall be held not
20 less than 10 days after the notice is mailed or delivered. The
21 notice shall designate the decision being reviewed. The notice
22 may be served by delivering it personally to the parties or
23 their representatives or by mailing it by certified mail to the
24 parties' addresses.

25 (c) The Department shall commence the hearing within 30

1 days of the receipt of request for hearing. The hearing shall
2 proceed as expeditiously as practicable, but in all cases shall
3 conclude within 90 days of commencement.

4 (Source: P.A. 85-1183.)

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

1

INDEX

2

Statutes amended in order of appearance

3

210 ILCS 45/1-105.5 new

4

210 ILCS 45/1-106 from Ch. 111 1/2, par. 4151-106

5

210 ILCS 45/1-108.5 new

6

210 ILCS 45/3-103 from Ch. 111 1/2, par. 4153-103

7

210 ILCS 45/3-103.5 new

8

210 ILCS 45/3-103.10 new

9

210 ILCS 45/3-108 from Ch. 111 1/2, par. 4153-108

10

210 ILCS 45/3-109 from Ch. 111 1/2, par. 4153-109

11

210 ILCS 45/3-109.5 new

12

210 ILCS 45/3-112 from Ch. 111 1/2, par. 4153-112

13

210 ILCS 45/3-116 from Ch. 111 1/2, par. 4153-116

14

210 ILCS 45/3-117 from Ch. 111 1/2, par. 4153-117

15

210 ILCS 45/3-118 from Ch. 111 1/2, par. 4153-118

16

210 ILCS 45/3-207 from Ch. 111 1/2, par. 4153-207

17

210 ILCS 45/3-208 from Ch. 111 1/2, par. 4153-208

18

210 ILCS 45/3-209 from Ch. 111 1/2, par. 4153-209

19

210 ILCS 45/3-213 from Ch. 111 1/2, par. 4153-213

20

210 ILCS 45/3-304.1

21

210 ILCS 45/3-704 from Ch. 111 1/2, par. 4153-704