

AN ACT

Concerning nursing homes; providing for the licensing of persons charged with the general administration of such homes; prescribing the powers and duties of the State Board of Examiners of Nursing Home Administrators; fixing fees and making certain acts unlawful.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.-This act shall be known and may be cited as the "Nursing Home Administrators License Act."

Section 2. Definitions.-As used in this act:

(1) "Board" means the State Board of Examiners of Nursing Home Administrators, a departmental administrative board in the Department of State.

(2) "Nursing home administrator" means any individual who is charged with the general administration of a nursing home whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.

(3) "Nursing home" means any institution or facility in which nursing care and related medical or other health services are provided for a period exceeding twenty-four hours, for two or more individuals, who are not relatives of the administrator who are not acutely ill and not in need of hospitalization, but who, because of age, illness, disease, injury, convalescence or physical or medical infirmity need such care.

(4) "Examiner" means a member of the board.

(5) "Secretary" means the secretary of the board.

(6) "Provisional license" is a temporary license issued to a provisional nursing home administrator.

(7) "Provisional nursing home administrator" means an individual who has been licensed as such.

(8) "Practice of nursing home administration" means the planning, organizing, directing and control of the operation of a nursing home.

Section 3. Administrator License Required.- (a) After July 1, 1970, no person shall practice nursing home administration or use any title, sign, card or device to indicate that he is a nursing home administrator, unless such person shall have been duly licensed and registered as a nursing home administrator or licensed as a provisional nursing home administrator. After July 1, 1970, no nursing home shall operate in the State unless it is under the supervision of a nursing home administrator licensed in the manner provided in this act.

(b) A nursing home of twenty-five beds or less may share the services of an administrator who is readily available at all times, and who can devote sufficient time to supervise the standards of the nursing home.

Section 3.1. State Board of Examiners of Nursing Home Administrators.- (a)

The State Board of Examiners of Nursing Home Administrators shall consist of fifteen members as follows: six members shall be nursing home administrators, (two from not-for-profit facilities, two from operated-for-profit facilities and two from county facilities); three members who have been actively involved with the care of chronically ill and infirm aged patients and who represent professions or occupations other than nursing home administration, such as medicine, nursing or hospital administration; three members representative of the consumer; and the Secretary of Health, or his designee, the Director of

the Bureau of Consumer Protection in the Office of Attorney General, or his designee, and the Commissioner of Professional and Occupational Affairs. No more than three professional members of the board shall be officials or full-time employees of State or local governments. No non-institutional member of the board shall have any financial interest in any nursing home. All members of the board shall be citizens of the United States and shall be residents of this Commonwealth.

(b) Hereafter, the term of office of each member shall be four years from his appointment, or until his successor has been appointed and qualified, but no longer than six months beyond the four-year period. In the event that any member shall die or resign or otherwise become disqualified during his term of office, his successor shall be appointed in the same way and with the same qualifications as above set forth and shall hold office for the unexpired term. No member shall be eligible for appointment to serve more than two consecutive full terms.

(c) Appointments to the board shall be made by the Governor, by and with the consent of a majority of the members elected to the Senate. The Governor may remove any member for misconduct, incapacity, incompetence or neglect of duty after the member so charged has been served with a written statement of charges and has been given an opportunity to be heard.

(d) The professional and public members of the board shall receive sixty dollars (\$60) per diem when actually engaged in the transaction of official business. Members shall receive, in addition, the amount of reasonable travel, hotel and other necessary expenses incurred in performing their duties for the board.

(e) The board, with the approval of the Commissioner of Professional and Occupational Affairs, may employ and fix the compensation and duties of necessary personnel to assist it in the performance of its duties.

(f) The board shall elect annually from its membership a chairman, vice-chairman and secretary.

(g) The board shall hold two or more meetings each year. At any meeting a majority of those members appointed and qualified shall constitute a quorum. A member may not be counted as part of a quorum or vote on any issue, other than temporary and automatic suspension under section 8.1, unless he is physically in attendance at the meeting. A member of the board who fails to attend three consecutive meetings shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of a family member. A public member who fails to attend two consecutive statutorily mandated training seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall forfeit board membership unless the Commissioner of Professional and Occupational Affairs, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.

(h) Public notice of meetings of the board shall be given and meetings of the board shall be conducted in accordance with the act of July 19, 1974 (P.L.486, No.175), referred to as the Public Agency Open Meeting Law.

(3.1 added Dec. 20, 1985, P.L.375, No.106)

Compiler's Note: The State Board of Examiners of Nursing Home Administrators is subject to periodic review under the act of Dec. 22, 1981, P.L.508, No.142, known as the Sunset Act, and will terminate on the date specified in that act unless reestablished or continued by the General Assembly. For the current status of the

board, see the appendix to this act.

Section 4. Functions and Duties of the Board.-(a) It shall be the function and duty of the board:

(1) To develop, impose, and enforce standards which shall be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience, which may include a requirement for supervised experience prior to licensure, in the field of institutional administration, are qualified to serve as nursing home administrators.

(2) To develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards.

(3) To issue licenses and registrations to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses or registrations previously issued by the board in any case where the individual holding any such license or registration is determined to have failed to conform to the requirements of such standards.

(4) To establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards.

(5) To receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards.

(6) To conduct in cooperation with the appropriate State agency having facility approval or licensure responsibility a continuing study of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(7) To submit annually to the Appropriations Committees of the House of Representatives and the Senate, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the Department of State. ((7) added Dec. 20, 1985, P.L.375, No.106)

(8) To submit annually a report, to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate, containing a description of the types of complaints received, status of cases, board action which has been taken and the length of the time from the initial complaint to final disposition. ((8) added Dec. 20, 1985, P.L.375, No.106)

(9) To develop standards of professional practice and standards of professional conduct appropriate to establish and maintain a high level of integrity and performance in the practice of nursing home administration. The board shall, not later than July 1, 1988, initiate the promulgation of regulations establishing such standards of professional practice and standards of professional conduct, provided that nothing in this clause shall restrict the imposition of penalties or disciplinary action pursuant to section 11 or 12 prior to final approval of such regulations pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." ((9) amended July 9, 1987, P.L.218, No.38)

(b) The board or any committee or member thereof, acting in an official capacity, shall have the authority to issue subpoenas, compel the attendance

of witnesses, administer oaths and take testimony concerning all matters within the jurisdiction of the board. Such board shall not be bound by the strict rules of evidence in the conduct of its proceedings but any determinations made shall be founded upon sufficient legal evidence to sustain them. The right of appeal from decisions of the board shall be in accordance with the provisions of the act of June 4, 1945 (P.L.1388), known as the "Administrative Agency Law."

(c) The board shall also have the authority to make rules and regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the Commonwealth to meet the requirements set forth in appropriate Federal law, and other pertinent Federal authority.

Section 5. Advisory Council.-(a) There may be an advisory council appointed by the board to be known as the Nursing Home Administrator Advisory Council, hereinafter called the advisory council, consisting of ten members. Six members shall be nursing home administrators. At least one of the nursing home administrator members shall be an administrator representing a proprietary nursing home, at least one shall be an administrator representing a nonprofit voluntary nursing home, at least one shall be an administrator representing a government facility which is a nursing home. The remaining members of the advisory council shall be an educator from an institution of higher learning engaged in teaching health institutional administration, a clergyman, a physician and a registered nurse, both with a demonstrated interest in long-term care. The nursing home administrators who are initially appointed as members need not be licensed but shall be required only to possess the qualifications and be eligible for licensure.

The term of each member of such advisory council shall be three years, or until a successor is appointed and has qualified, and vacancies shall be filled for the unexpired term only. Of the members first appointed, three shall be appointed for a term of one year, three shall be appointed for a term of two years, and three shall be appointed for a term of three years.

The board may remove any member of the advisory council for misconduct, incapacity, incompetence or neglect of duty after such member of the council shall have been given a written statement of the charges and an opportunity to be heard thereon.

(b) The advisory council shall elect annually from its members, a chairman and vice-chairman and for the purpose of transacting its business shall meet at least once every three months. Special meetings may be held as frequently as its business may require at the call of the chairman upon the request of a majority of the members of the council, or as requested by the chairman of the board. A quorum of the council shall consist of not less than five members.

Members of the advisory council shall receive no compensation, but each shall be entitled to receive his reasonable expenses actually and necessarily incurred in the performance of his duties.

The secretary of the board shall serve as secretary to the council, but shall not be a member of the council and shall receive no extra compensation therefor.

(c) The board may request the advisory council, and upon such request, the advisory council shall, or upon its own initiative the advisory council may:

(1) Consider any matters relating to the practice of nursing home administration including any matter pertaining to the administration and enforcement of this act and advise the board thereon.

(2) Delegate one member of the council to attend as an observer any formal disciplinary hearings and subsequent proceedings involving an alleged violation of this act. The council shall not delegate a member who is engaged as a nursing home administrator in the same county in which the respondent nursing home administrator licensee is engaged.

(d) The advisory council shall have no executive, administrative, or appointive powers or duties.

Section 6. Qualifications for Admission to Examination.-(a) The board shall admit to examination for licensure as a nursing home administrator any candidate who pays a fee established by the board by regulation and submits evidence of good moral character and suitability prescribed by the board, and, that he is at least twenty-one years old, a citizen of the United States, or that he has duly declared his intention of becoming a citizen of the United States, and that he has completed preliminary education satisfactory to the board. ((a) amended Dec. 20, 1985, P.L.375, No.106)

(b) On and after July 1, 1970 no applicant for license as a nursing home administrator shall be admitted to the licensing examination, nor be entitled to or be granted a license as a nursing home administrator unless he shall submit written evidence, on forms provided for such purpose by the board, that he has graduated from a high school or secondary school approved and recognized by the educational authorities of the state in which such school is located, or a political division thereof, or has submitted a certificate indicating that he has obtained high school or secondary school equivalency, such certificate being duly certified by a state educational authority or a political division thereof, and that he has complied with the provisions of subsection (d) of this section.

(c) On and after January 1, 1977 no applicant for license as a nursing home administrator shall be admitted to the licensing examination, nor be entitled to or be granted a license as a nursing home administrator unless he shall submit written evidence, on forms provided for such purpose by the board that he has successfully completed two years' college level study after secondary school study in an accredited institution of higher learning, and that he has complied with the provisions of subsection (d) of this section.

(d) On and after July 1, 1970, each applicant who has not completed a regular course of study or program in an accredited institution of higher learning, which course of study or program shall have been approved by the board as being adequate academic preparation for nursing home administration, shall in addition to meeting the requirements of subsection (a) of this section, submit evidence satisfactory to the board that he has attended specialized courses or a program of study in an area relevant to nursing home administration, as required by the rules and regulations of the board.

(e) A candidate who applies for examination under and pursuant to subsection (c) of this section, in lieu of the educational requirements provided for therein, may submit evidence satisfactory to the board that he has obtained one year of practical experience in nursing home administration or in related health facility administration for each year of required post-high school or post-secondary school education.

(f) Any person who has operated a nursing home for a period of three years or more shall be admitted to the licensing examination without the necessity of submitting written evidence of high school graduation or its equivalent. ((f) added Apr. 13, 1973, P.L.15, No.5)

(g) (1) The board shall, within six months of the effective date of this act, initiate the promulgation of regulations approving specialized graduate and undergraduate courses of study in this Commonwealth, which shall be

accepted by the board as relevant to the practice of nursing home administration. Such courses shall include, but not be limited to, nursing home administration, health facility administration and geriatric social work.

(2) The board shall, within six months of the effective date of this act, initiate the promulgation of regulations setting forth the practical experience acceptable in lieu of the educational requirements set forth in subsections (c) and (d).

((g) added Dec. 20, 1985, P.L.375, No.106)

Section 7. Examinations.-The board shall determine the subjects of examination for applicants for licensure as nursing home administrators, and the scope, content and format of such examinations which in any examination shall be the same for all candidates. The examinations shall include examination of the applicant to demonstrate his proficiency in the rules and regulations of health and safety.

Examinations shall be held at least four times for the first year and at least two times each year thereafter, at such times and places as the board shall designate.

All written, oral and practical examinations shall be prepared and administered by a qualified and approved professional testing organization in the manner prescribed for written examinations by the provisions of section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(7 amended Dec. 20, 1985, P.L.375, No.106)

Section 7.1. Fees.- (a) All fees required pursuant to this act shall be fixed by the board by regulation and shall be subject to review in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues generated by fees, fines and civil penalties imposed pursuant to this act are not sufficient to match expenditures over a two-year period, the board shall increase those fees by regulation, subject to review in accordance with the Regulatory Review Act, such that the projected revenues will meet or exceed projected expenditures.

(b) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board are inadequate to meet the minimum enforcement efforts required, then the bureau, after consultation with the board, shall increase the fees by regulation, subject to review in accordance with the Regulatory Review Act, such that adequate revenues are raised to meet the required enforcement effort.

(c) All fees, fines and civil penalties collected under the provisions of this act shall be paid into the Professional Licensure Augmentation Account established pursuant to, and for use in accordance with, the act of July 1, 1978 (P.L.700, No.124), known as the "Bureau of Professional and Occupational Affairs Fee Act."

(7.1 added Dec. 20, 1985, P.L.375, No.106)

Section 8. Licenses.- (a) An applicant for a license as a nursing home administrator who has (i) successfully complied with the requirements of section 6 and the standards provided for therein; and (ii) passed the examination provided for in section 7, shall be issued a license on a form provided for that purpose by the board, certifying that the applicant has met the requirements of the laws, rules and regulations entitling him to serve, act, practice and otherwise hold himself out as a duly licensed nursing home administrator.

(b) ((b) repealed Dec. 20, 1985, P.L.375, No.106)

(c) ((c) repealed Dec. 20, 1985, P.L.375, No.106)

(d) ((d) repealed Dec. 20, 1985, P.L.375, No.106)

(e) If the board finds that programs of training and instruction conducted within the Commonwealth are not sufficient in number or content to enable nursing home administrators to meet requirements established pursuant to this act, it may institute and conduct or arrange with others to conduct one or more such programs, and shall make provision for their accessibility to residents of this Commonwealth. The board may approve programs conducted within and without this Commonwealth as sufficient to meet education and training requirements established pursuant to this act. For purposes of this subsection, the board shall have the authority to receive and disburse Federal funds received pursuant to section 1908(e)(1) of the Social Security Act.

Section 8.1. Temporary and Automatic Suspensions.-(a) A license issued under this act may be temporarily suspended under circumstances as determined by the board to be an immediate and clear danger to the public health and safety. The board shall issue an order to that effect without a hearing, but upon due notice to the licensee concerned at his or her last known address, which shall include a written statement of all allegations against the licensee. The provisions of section 12 shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within thirty days following the issuance of an order temporarily suspending a license, the board shall conduct or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee whose license has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than one hundred eighty days.

(b) A license issued under this act shall automatically be suspended upon the legal commitment to an institution of a licensee because of mental incompetency from any cause upon filing with the board a certified copy of such commitment, conviction of a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or conviction of an offense under the laws of another jurisdiction, which, if committed in Pennsylvania, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act." As used in this section the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this subsection shall not be stayed pending any appeal of a conviction. Restoration of such license shall be made as hereinafter provided in the case of revocation or suspension of such license.

(c) An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reports of alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

(8.1 added Dec. 20, 1985, P.L.375, No.106)

Section 9. Registration.-(a) Every individual who holds a valid license as a nursing home administrator issued by the board under subsection (a) of section 8 shall immediately upon issuance thereof be deemed registered with the board and be issued a certificate of registration. Thereafter, such

individual shall biennially be required to apply to the board for a new certificate of registration and report any facts requested by the board on forms provided for such purpose.

(b) Upon making an application for a new certificate of registration such individual shall pay a biennial registration fee established by the board by regulation, and, at the same time shall submit evidence satisfactory to the board that during the biennial period immediately preceding such application for registration he has attended a board approved continuation education program or course of study of not less than twenty-four hours as provided in the rules and regulations of the board. ((b) amended Dec. 20, 1985, P.L.375, No.106)

(c) Upon receipt of such application for registration, the registration fee and the evidence required with respect to continuing education, the board shall issue a certificate of registration to such nursing home administrator.

(d) The license of a nursing home administrator who fails to comply with the provisions of this section, and who continues to act as a nursing home administrator, may be suspended or revoked by the board. The right of appeal from the decision of the board shall be in accordance with the act of June 4, 1945 (P.L.1388), known as the "Administrative Agency Law."

(e) A nursing home administrator who has been duly licensed and registered in this Commonwealth whose license shall not have been revoked or suspended, and whose registration has expired because he shall have temporarily abandoned the practice of nursing home administration, or shall have removed from the Commonwealth, or for such other reason, may register within the Commonwealth upon complying with the provisions of this section for registration, and also, filing with the board his affidavit of such facts.

(f) Only an individual who has qualified as a licensed and registered nursing home administrator, and who holds a valid current registration certificate pursuant to the provisions of this section for the current biennial registration period, shall have the right and the privilege of using the title "Nursing Home Administrator," and have the right and privilege of using the abbreviation "N.H.A." after his name. No other person shall use or shall be designated by such title or such abbreviation or any other words, letters, sign, card or device tending to, or intended to indicate that such person is a licensed and registered nursing home administrator.

(g) The board shall maintain a register of all applications for licensing and registration of nursing home administrators, which register shall show: the place or residence, name and age of each applicant; the name and address of employer or business connection of each applicant; the date of application; complete information of educational and experience qualifications; the action taken by the board; the serial number of the license and of registration certificates issued to the applicant; the date on which the board reviewed and acted upon the application; and such other pertinent information as may be deemed necessary.

Section 9.1. Reporting of Multiple Licensure.-Any licensed nursing home administrator of this Commonwealth who is also licensed to practice nursing home administration in any other state, territory or country shall report this information to the board on the biennial renewal application. Any disciplinary action taken in other states shall be reported to the board on the biennial renewal application or within ninety days of final disposition, whichever is sooner. Multiple licensure shall be noted by the board on the nursing home administrator's record, and such state, territory or country shall be notified by the board of any disciplinary actions taken against the nursing home administrator in this Commonwealth.

(9.1 added Dec. 20, 1985, P.L.375, No.106)

Section 10. Reciprocity.-The board, in its discretion, and otherwise subject to the provisions of this act and the rules and regulations of the board promulgated thereunder prescribing the qualifications for a nursing home administrator license, may endorse a nursing home administrator license issued by the proper authorities of any other state, upon payment of a fee established by the board by regulation and upon submission of evidence satisfactory to the board (i) that such other state maintained a system and standard of qualifications and examinations for a nursing home administrator license which were equivalent to those required in this State at the time such other license was issued by such other state, and (ii) that such other state gives similar recognition and endorsement to nursing home administrator licenses of this Commonwealth.

(10 amended Dec. 20, 1985, P.L.375, No.106)

Section 11. Penalties.- (a) Whoever (i) sells or fraudulently obtains or furnishes any nursing home administrator license or aids or abets therein, or (ii) practices as a nursing home administrator under cover of any license or registration illegally or fraudulently obtained or unlawfully issued, or (iii) practices as a nursing home administrator or uses in connection with his name any designation tending to imply that he is a nursing home administrator unless duly licensed and registered to so practice under the provisions of this act, or (iv) practices as a nursing home administrator during the time his license or registration issued under the provisions of this act shall be suspended or revoked, or (v) otherwise violates any of the provisions of this act shall, upon conviction thereof be sentenced to pay a fine of not more than five hundred dollars (\$500) or to imprisonment for not more than thirty days, or both, and for a second or subsequent offense shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or to imprisonment for not more than ninety days, or both.

(b) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of seven members, whichever is greater, may levy a civil penalty of up to one thousand dollars (\$1,000) on any current licensee who violates any provision of this act or on any person who practices nursing home administration without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(11 amended Dec. 20, 1985, P.L.375, No.106)

Section 12. Disciplinary Proceedings.- (a) The license and/or registration of any person practicing or offering to practice nursing home administration may be revoked or suspended, or such licensee may be reprimanded, censured or otherwise disciplined in accordance with the provisions of this section upon decision and after due hearing in any of the following cases: (Par. amended Dec. 20, 1985, P.L.375, No.106)

(1) Upon proof that such licensee is unfit or incompetent by reason of negligence, habits or other causes.

(2) Upon proof that such licensee has wilfully or repeatedly violated any of the provisions of this act or the rules enacted in accordance therewith, or wilfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the home in which he is the administrator.

(3) Upon proof that such licensee is guilty of fraud or deceit in the

practice of nursing home administration or in his admission to such practice.

(4) Upon proof that such licensee has been convicted of a felony in the courts of this Commonwealth, the United States, or any other state, territory or country, or has received probation without verdict, disposition in lieu of trial, or an Accelerated Rehabilitative Disposition in the disposition of felony charges. ((4) amended Dec. 20, 1985, P.L.375, No.106)

(5) Upon proof that such licensee has engaged in unprofessional conduct. Unprofessional conduct shall include departure from or failure to conform to an ethical or quality standard of the profession. ((5) added July 9, 1987, P.L.218, No.38)

(6) Having a license to practice nursing home administration revoked or suspended or having other disciplinary action imposed or consenting to the imposition of such other disciplinary action by the proper licensing authority of another state, territory or country or having his application for license refused, revoked or suspended by the proper licensing authority of another state, territory or country. ((6) amended July 9, 1987, P.L.218, No.38)

(b) The members of the board shall have jurisdiction to hear all charges brought under the provisions of this section against persons licensed and registered as nursing home administrators or licensed as provisional nursing home administrators, and upon such hearings shall determine such charges upon their merits. If the board determines that such person is guilty of the charges, the board may revoke his or her license or registration, suspend him or her from practice, or reprimand, censure or otherwise discipline such licensee.

(c) Proceedings under this section shall be begun by filing with the board charges in writing and under oath. The charges may be preferred by any person or by the board. Thereupon the chairman of the board shall designate three or more members thereof as a hearing committee to hear the charges and to report to the board thereon.

(d) At the hearing the licensee shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence on his own behalf, to cross-examine witnesses and to have subpoenas issued in his behalf by the hearing committee. The hearing committee shall make a written report to the board of the findings and recommendations which shall be considered by the board in arriving at its determination.

(e) Members of the hearing committee shall exercise any of the powers set forth in subsection (b) of section 4 as may be necessary for the proper conduct of the hearing.

(f) Appeals shall be in accordance with the act of June 4, 1945 (P.L.1388), known as the "Administrative Agency Law."

Section 12.1. Reports.-The board, in cooperation with the Department of Health, shall develop a reporting procedure which requires the Department of Health to notify the board when deficiencies found in a licensed nursing home may be due to the practices of the nursing home administrator and which requires the board to notify the Department of Health of any disciplinary actions taken against a nursing home administrator licensed under this act. The reporting procedure so developed shall be promulgated by the board by regulation and shall be subject to review in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."

(12.1 added Dec. 20, 1985, P.L.375, No.106)

Section 13. Restoration of Licenses and/or Registrations.-(a) Unless ordered to do so by Commonwealth Court or an appeal therefrom, the board shall not reinstate the license or registration of a person to practice nursing home administration pursuant to this act which license or registration has been

revoked. Any person whose license or registration has been revoked may apply for reinstatement, after a period of at least five years, but must meet all of the licensing qualifications of this act for the license applied for, to include the examination requirement, if he or she desires to practice at any time after such revocation.

(a.1) The board shall require a person whose license or registration has been suspended or revoked to return the license or registration in such manner as the board directs. Failure to do so shall be a misdemeanor of the third degree.

(b) Application for the reissuance of a license and/or registration shall be made in such manner as the board may direct.

(c) If a person convicted of a felony or crime deemed to be a felony is subsequently pardoned by the Governor of the state where such conviction was had or by the President of the United States, or shall receive a certificate of good conduct granted by the Board of Probation and Parole, the board may, in its discretion, on application of such person and on the submission of evidence satisfactory to the board, restore to such person the nursing home administrator's license and/or registration.

(13 amended Dec. 20, 1985, P.L.375, No.106)

Section 14. Temporary Permits.- (a) In the event of unusual circumstances affecting the administration of a nursing home, such as death or disability of the licensed administrator, his resignation or dismissal, or other valid reasons as determined by the board, the board may, in its discretion, issue without examination a temporary permit as nursing home administrator to an applicant who provides proof under oath, on forms prescribed by the board, that he (i) meets the criteria of age, citizenship and good moral character and suitability as provided in this act; (ii) has been nominated to be the nursing home administrator in this one particular facility which shall be identified on his application; and (iii) pays the application and license fees set by the board as a requirement for temporary permits.

(b) A temporary permit shall entitle the holder to serve as a nursing home administrator only in the particular facility indicated on his application, and shall be valid for a period as determined by the board, not to exceed one year from the date of issuance, and shall not thereafter be renewed or continued.

(c) Public notice shall be given by the board of the issuance of all temporary permits.

Section 14.1. Injunction Against Unlawful Practice.- It shall be unlawful for any person to practice or attempt to offer to practice nursing home administration, as defined in this act, without having at the time of so doing a valid, unexpired, unrevoked and unsuspended license issued under this act. The unlawful practice of nursing home administration as defined in this act may be enjoined by the courts on petition of the board or the Commissioner of Professional and Occupational Affairs. In any such proceeding it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found guilty of the unlawful practice of nursing home administration, the court shall enjoin him or her from so practicing unless and until he or she has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction hereby given is in addition to any other civil or criminal prosecution and punishment.

(14.1 added Dec. 20, 1985, P.L.375, No.106)

Section 14.2. Investigative Subpoena.- The board shall have the authority to issue subpoenas, upon application of an attorney responsible for

representing the Commonwealth in disciplinary matters before the board, for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. The board shall have the power to subpoena witnesses, to administer oaths, to examine witnesses and to take such testimony or compel the production of such books, records, papers and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation or hearing, held or had by it. Patient records may not be subpoenaed without consent of the patient or without order of a court of competent jurisdiction on a showing that the records are reasonably necessary for the conduct of the investigation. The court may impose such limitations on the scope of the subpoenas as are necessary to prevent unnecessary intrusion in patient confidential information. The board is authorized to apply to the Commonwealth Court to enforce its subpoenas.

(14.2 added Dec. 20, 1985, P.L.375, No.106)

Section 15. Appropriation.-The sum of eight thousand dollars (\$8,000) or so much thereof as may be necessary, is hereby appropriated to defray the expenses of the board, including personal services, its operation and maintenance in carrying out the provisions of this act.

Section 16. Effective Date.-This act shall take effect immediately.

#### APPENDIX

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#### Supplementary Provisions of Amendatory Statutes

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1985, Dec. 20, P.L.375, NO.106

Section 15. This act with respect to the State Board of Examiners of Nursing Home Administrators shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Compiler's Note: Act 106 added or amended sections 3.1, 4, 6, 7 and 7.1, repealed in part section 8 and added or amended sections 8.1, 9, 9.1, 10, 11, 12, 12.1, 13, 14.1 and 14.2 of Act 122.

Section 16. (a) All fees fixed pursuant to section 213 of the act of July 1, 1978 (P.L.700, No.124), known as the Bureau of Professional and Occupational Affairs Fee Act, shall continue in full force and effect until changed as provided herein.

(b) Persons who are members of the State Board of Examiners of Nursing Home Administrators, on the effective date of this act, shall serve on the board as provided for in this act until their current terms expire, provided that any current board members whose terms have expired on or before the effective date of this act shall serve until their successors are duly appointed and qualified, but no longer than six months after the effective date of this act.

(c) Each rule and regulation of the board in effect on the effective date of this act shall remain in effect after such date until amended by the board, provided that the board shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act.