

SB0770



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0770

Introduced 2/1/2017, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

See Index

Amends the Regulatory Sunset Act by extending the repeal date of the Home Medical Equipment and Service Provider License Act from January 1, 2018 to January 1, 2028. Amends the Home Medical Equipment and Services Provider License Act. Makes changes in provisions concerning powers and duties of the Department of Financial and Professional Regulation, the Home Medical Equipment and Services Board, applications for original licensure, discipline of license, investigations, notices and hearings, findings and recommendations by the Board, hearing officers, and the application of the Administrative Review law. Provides that all applicants and licensees shall provide a valid address and email address, which shall serve as the address and email address of record, and shall inform the Department of any change of address or email address through specified means. Provides provisions concerning confidentiality of information collected by the Department in the course of an examination or investigation. Makes other changes. Effective immediately.

LRB100 05747 SMS 15770 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 Regulatory Sunset Act is amended by changing
5 Section 4.28 and by adding Section 4.38 as follows:

6 (5 ILCS 80/4.28)

7 Sec. 4.28. Acts repealed on January 1, 2018. The following
8 Acts are repealed on January 1, 2018:

9 The Illinois Petroleum Education and Marketing Act.

10 The Podiatric Medical Practice Act of 1987.

11 The Acupuncture Practice Act.

12 The Illinois Speech-Language Pathology and Audiology
13 Practice Act.

14 The Interpreter for the Deaf Licensure Act of 2007.

15 The Nurse Practice Act.

16 The Clinical Social Work and Social Work Practice Act.

17 The Pharmacy Practice Act.

18 ~~The Home Medical Equipment and Services Provider License~~
19 ~~Act.~~

20 The Marriage and Family Therapy Licensing Act.

21 The Nursing Home Administrators Licensing and Disciplinary
22 Act.

23 The Physician Assistant Practice Act of 1987.

1 (Source: P.A. 95-187, eff. 8-16-07; 95-235, eff. 8-17-07;
2 95-450, eff. 8-27-07; 95-465, eff. 8-27-07; 95-617, eff.
3 9-12-07; 95-639, eff. 10-5-07; 95-687, eff. 10-23-07; 95-689,
4 eff. 10-29-07; 95-703, eff. 12-31-07; 95-876, eff. 8-21-08;
5 96-328, eff. 8-11-09.)

6 (5 ILCS 80/4.38 new)

7 Sec. 4.38. Act repealed on January 1, 2028. The following
8 Act is repealed on January 1, 2028:

9 The Home Medical Equipment and Services Provider License
10 Act.

11 Section 10. The Home Medical Equipment and Services
12 Provider License Act is amended by changing Sections 10, 15,
13 20, 25, 30, 75, 95, 100, 110, 115, 125, 135, 150, and 165 and by
14 adding Sections 13 and 185 as follows:

15 (225 ILCS 51/10)

16 (Section scheduled to be repealed on January 1, 2018)

17 Sec. 10. Definitions. As used in this Act:

18 (1) "Department" means the Department of Financial and
19 Professional Regulation.

20 (2) "Secretary" means the Secretary of Financial and
21 Professional Regulation.

22 (3) "Board" means the Home Medical Equipment and
23 Services Board.

1 (4) "Home medical equipment and services provider" or
2 "provider" means a legal entity, as defined by State law,
3 engaged in the business of providing home medical equipment
4 and services, whether directly or through a contractual
5 arrangement, to an unrelated sick individual or an
6 unrelated individual with a disability where that
7 individual resides.

8 (5) "Home medical equipment and services" means the
9 delivery, installation, maintenance, replacement, or
10 instruction in the use of medical equipment used by a sick
11 individual or an individual with a disability to allow the
12 individual to be maintained in his or her residence.

13 (6) "Home medical equipment" means technologically
14 sophisticated medical devices, apparatuses, machines, or
15 other similar articles bearing a label that states
16 "Caution: federal law requires dispensing by or on the
17 order of a physician.", which are usable in a home care
18 setting, including but not limited to:

19 (A) oxygen and oxygen delivery systems;

20 (B) ventilators;

21 (C) respiratory disease management devices,
22 excluding compressor driven nebulizers;

23 (D) wheelchair seating systems;

24 (E) apnea monitors;

25 (F) transcutaneous electrical nerve stimulator
26 (TENS) units;

1 (G) low air-loss cutaneous pressure management
2 devices;

3 (H) sequential compression devices;

4 (I) neonatal home phototherapy devices;

5 (J) enteral feeding pumps; and

6 (K) other similar equipment as defined by the
7 Board.

8 "Home medical equipment" also includes hospital beds
9 and electronic and computer-driven wheelchairs, excluding
10 scooters.

11 (7) "Address of record" means the designated address
12 recorded by the Department in the applicant's or licensee's
13 application file or license file maintained by the
14 Department's licensure maintenance unit. ~~It is the duty of~~
15 ~~the applicant or licensee to inform the Department of any~~
16 ~~change of address, and such changes must be made either~~
17 ~~through the Department's website or by contacting the~~
18 ~~Department's licensure maintenance unit.~~

19 (8) "Email address of record" means the designated
20 email address recorded by the Department in the applicant's
21 application file or the licensee's license file, as
22 maintained by the Department's licensure maintenance unit.

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

24 (225 ILCS 51/13 new)

25 Sec. 13. Address of record; email address of record. All

1 applicants and licensees shall:

2 (1) provide a valid address and email address to the
3 Department, which shall serve as the address of record and
4 email address of record, respectively, at the time of
5 application for licensure or renewal of a license; and

6 (2) inform the Department of any change of address of
7 record or email address of record within 14 days after such
8 change either through the Department's website or by
9 contacting the Department's licensure maintenance unit.

10 (225 ILCS 51/15)

11 (Section scheduled to be repealed on January 1, 2018)

12 Sec. 15. Licensure requirement; exempt activities.

13 (a) No entity shall provide or hold itself out as providing
14 home medical equipment and services, or use the title "home
15 medical equipment and services provider" in connection with his
16 or her profession or business, without a license issued by the
17 Department under this Act.

18 (b) Nothing in this Act shall be construed as preventing or
19 restricting the practices, services, or activities of the
20 following, unless those practices, services, or activities
21 include providing home medical equipment and services through a
22 separate legal entity:

23 (1) a person licensed or registered in this State by
24 any other law engaging in the profession or occupation for
25 which he or she is licensed or registered;

1 (2) a home medical services provider entity that is
2 accredited under home care standards by a recognized
3 accrediting body;

4 (3) home health agencies that do not have a Part B
5 Medicare supplier number or that do not engage in the
6 provision of home medical equipment and services;

7 (4) hospitals, excluding hospital-owned and
8 hospital-related providers of home medical equipment and
9 services;

10 (5) manufacturers and wholesale distributors of home
11 medical equipment who do not sell directly to a patient;

12 (6) health care practitioners who lawfully prescribe
13 or order home medical equipment and services, or who use
14 home medical equipment and services to treat their
15 patients, including but not limited to physicians, nurses,
16 physical therapists, respiratory therapists, occupational
17 therapists, speech-language pathologists, optometrists,
18 chiropractors, and podiatric physicians;

19 (7) pharmacists, pharmacies, and home infusion
20 pharmacies that are not engaged in the sale or rental of
21 home medical equipment and services;

22 (8) hospice programs that do not involve the sale or
23 rental of home medical equipment and services;

24 (9) nursing homes;

25 (10) veterinarians;

26 (11) dentists; and

1 (12) emergency medical service providers.

2 (Source: P.A. 98-214, eff. 8-9-13.)

3 (225 ILCS 51/20)

4 (Section scheduled to be repealed on January 1, 2018)

5 Sec. 20. Powers and duties of the Department.

6 (a) The Department shall exercise the powers and duties
7 prescribed by the Civil Administrative Code of Illinois for the
8 administration of licensure Acts and shall exercise other
9 powers and duties necessary for effectuating the purposes of
10 this Act.

11 (b) The Department may adopt rules to administer and
12 enforce this Act, including but not limited to fees for
13 original licensure and renewal and restoration of licenses, and
14 may prescribe forms to be issued to implement this Act. At a
15 minimum, the rules adopted by the Department shall include
16 standards and criteria for licensure and for professional
17 conduct and discipline. The Department may ~~shall~~ consult with
18 the Board in adopting rules. ~~Notice of proposed rulemaking~~
19 ~~shall be transmitted to the Board, and the Department shall~~
20 ~~review the Board's response and any recommendations made in the~~
21 ~~response. The Department shall notify the Board in writing with~~
22 ~~proper explanation of deviations from the Board's~~
23 ~~recommendations and response.~~

24 (c) The Department may at any time seek the advice and
25 expert knowledge of the Board on any matter relating to the

1 administration of this Act.

2 (d) (Blank).

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

4 (225 ILCS 51/25)

5 (Section scheduled to be repealed on January 1, 2018)

6 Sec. 25. Home Medical Equipment and Services Board. The
7 Secretary shall appoint a Home Medical Equipment and Services
8 Board, in consultation with a state association representing
9 the home medical equipment and services industry, to serve in
10 an advisory capacity to the Secretary. The Board shall consist
11 of 7 members. Four members shall be home medical equipment and
12 services provider representatives, at least one of whom shall
13 be a pharmacy-based provider. The 3 remaining members shall
14 include one home care clinical specialist, one respiratory care
15 practitioner, and one public member. The public member shall
16 not be engaged in any way, directly or indirectly, as a
17 provider of health care.

18 Members shall serve 4-year ~~4-year~~ terms and until their
19 successors are appointed and qualified. No member shall be
20 reappointed to the Board for a term that would cause continuous
21 service on the Board to exceed 8 years. Appointments to fill
22 vacancies shall be made in the same manner as original
23 appointments, for the unexpired portion of the vacated term.

24 The home medical equipment and services provider
25 representatives appointed to the Board shall have engaged in

1 the provision of home medical equipment and services or related
2 home care services for at least 3 years prior to their
3 appointment, shall be currently engaged in providing home
4 medical equipment and services in the State of Illinois, and
5 must have no record of convictions related to fraud or abuse
6 under either State or federal law.

7 The membership of the Board should reasonably reflect
8 representation from the geographic areas in this State.

9 The Board shall annually elect one of its members as
10 chairperson and vice chairperson.

11 Each Board member shall be paid his or her necessary
12 expenses while engaged in the performance of his or her duties.
13 ~~Members of the Board shall receive as compensation a reasonable~~
14 ~~sum as determined by the Secretary for each day actually~~
15 ~~engaged in the duties of the office, and shall be reimbursed~~
16 ~~for authorized expenses incurred in performing the duties of~~
17 ~~the office.~~

18 The Secretary may terminate the appointment of any member
19 for cause which in the opinion of the Secretary reasonably
20 justifies the termination. The Secretary shall be the sole
21 arbiter of whether the cause reasonably justifies termination.

22 Members of the Board shall be immune from suit in an action
23 based upon any disciplinary proceedings or other activities
24 performed in good faith as members of the Board.

25 A majority of Board members currently appointed shall
26 constitute a quorum. A vacancy in the membership of the Board

1 shall not impair the rights of a quorum to exercise the rights
2 and perform all of the duties of the Board.

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

4 (225 ILCS 51/30)

5 (Section scheduled to be repealed on January 1, 2018)

6 Sec. 30. Application for original licensure. Applications
7 for original licensure shall be made to the Department in
8 writing or electronically and signed by the applicant on forms
9 prescribed by the Department or by electronic form and shall be
10 accompanied by a nonrefundable fee set by rule of the
11 Department. The Department may require from an applicant
12 information that, in its judgment, will enable the Department
13 to pass on the qualifications of the applicant for licensure.

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

19 (Source: P.A. 90-532, eff. 11-14-97.)

20 (225 ILCS 51/75)

21 (Section scheduled to be repealed on January 1, 2018)

22 Sec. 75. Refused issuance, suspension, ~~or~~ revocation, or
23 other discipline of license.

24 (a) The Department may refuse to issue, renew, or restore a

1 license, or may revoke, suspend, place on probation, reprimand,
2 impose a fine not to exceed \$10,000 for each violation, or take
3 other disciplinary or non-disciplinary action as the
4 Department may deem proper with regard to a licensee for any
5 one or combination of the following reasons:

6 (1) Making a material misstatement in furnishing
7 information to the Department.

8 (2) Violation of this Act or its rules.

9 (3) Conviction of the licensee or any owner or officer
10 of the licensee by plea of guilty or nolo contendere,
11 finding of guilt, jury verdict, or entry of judgment or by
12 sentencing for any crime, including, but not limited to,
13 convictions, preceding sentences of supervision,
14 conditional discharge, or first offender probation, under
15 the laws of any jurisdiction of the United States that (i)
16 is a felony under the laws of this State or (ii) is a
17 misdemeanor, an essential element of which is dishonesty,
18 or that is directly related to the home medical and
19 equipment services. ~~Conviction of or entry of a plea of~~
20 ~~guilty or nolo contendere to any crime that is a felony~~
21 ~~under the laws of the United States or any state or~~
22 ~~territory thereof or a misdemeanor, an essential element of~~
23 ~~which is dishonesty or that is directly related to the~~
24 ~~practice of the profession.~~

25 (4) Making a misrepresentation to obtain licensure or
26 to violate a provision of this Act.

1 (5) Gross negligence in practice under this Act.

2 (6) Engaging in a pattern of practice or other behavior
3 that demonstrates incapacity or incompetence to practice
4 under this Act.

5 (7) Aiding, assisting, or willingly permitting another
6 person in violating any provision of this Act or its rules.

7 (8) Failing, within 30 days, to provide information in
8 response to a written request made by the Department.

9 (9) Engaging in dishonorable, unethical, or
10 unprofessional conduct of a character likely to deceive,
11 defraud, or harm the public.

12 (10) Adverse action taken ~~Discipline~~ by another state,
13 District of Columbia, territory, or foreign nation, if at
14 least one of the grounds for the discipline is the same or
15 substantially equivalent to one set forth in this Act.

16 (11) Directly or indirectly giving to or receiving from
17 any person, firm, corporation, partnership, or association
18 any fee, commission, rebate, or other form of compensation
19 for any services not actually or personally rendered.

20 (12) A finding that the licensee, after having its
21 license placed on probationary status, has violated the
22 terms of probation.

23 (13) Willfully making or filing false records or
24 reports in the course of providing home medical equipment
25 and services, including but not limited to false records or
26 reports filed with State agencies or departments.

1 (14) Solicitation of business services, other than
2 according to permitted advertising.

3 (15) The use of any words, abbreviations, figures, or
4 letters with the intention of indicating practice as a home
5 medical equipment and services provider without a license
6 issued under this Act.

7 (16) Failure to file a return, or to pay the tax,
8 penalty, or interest shown in a filed return, or to pay any
9 final assessment of tax, penalty, or interest, as required
10 by any tax Act administered by the Department of Revenue,
11 until such time as the requirements of any such tax Act are
12 satisfied.

13 (17) Failure to comply with federal or State laws and
14 regulations concerning home medical equipment and services
15 providers.

16 (18) Solicitation of professional services using false
17 or misleading advertising.

18 (19) Failure to display a license in accordance with
19 Section 45.

20 (20) Habitual or excessive use or addiction to alcohol,
21 narcotics, stimulants, or any other chemical agent or drug
22 that results in the inability to practice with reasonable
23 judgment, skill, or safety by an owner or officer of the
24 licensee.

25 (21) Physical illness, mental illness, or disability,
26 including without limitation deterioration through the

1 aging process and loss of motor skill, that results in the
2 inability to practice the profession with reasonable
3 judgment, skill, or safety by an owner or officer of the
4 licensee.

5 All fines imposed under this Section shall be paid within
6 60 days after the effective date of the order imposing the fine
7 or in accordance with the terms set forth in the order imposing
8 the fine.

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

10 (225 ILCS 51/95)

11 (Section scheduled to be repealed on January 1, 2018)

12 Sec. 95. Investigations; notice and hearing.

13 (a) The Department may investigate the actions of an
14 applicant or of an entity holding or claiming to hold a
15 license.

16 (b) The Department shall, before refusing to issue or renew
17 a license or disciplining a licensee, at least 30 days prior to
18 the date set for the hearing, notify in writing the applicant
19 or licensee of the nature of the charges and that a hearing
20 will be held on the date designated. The Department shall
21 direct the applicant or licensee to file a written answer to
22 the Board under oath within 20 days after the service of the
23 notice and inform the applicant or licensee that failure to
24 file an answer will result in default being taken against the
25 applicant or licensee and that the license may be suspended,

1 revoked, placed on probationary status, or other disciplinary
2 action may be taken, including limiting the scope, nature, or
3 extent of business, as the Secretary may deem proper. Written
4 notice may be served by personal delivery, ~~or certified or~~
5 ~~registered~~ mail to the applicant or licensee at his or her
6 address of record, or email to the applicant or licensee's
7 email address of record. If the entity fails to file an answer
8 after receiving notice, the entity's license may, in the
9 discretion of the Department, be suspended, revoked, or placed
10 on probationary status, or the Department may take whatever
11 disciplinary or non-disciplinary action it deems proper,
12 including limiting the scope, nature, or extent of the entity's
13 business, or imposing a fine, without a hearing, if the act or
14 acts charged constitute sufficient grounds for such action
15 under this Act. At the time and place fixed in the notice, the
16 Board shall proceed to hear the charges, and the parties or
17 their counsel shall be accorded ample opportunity to present
18 such statements, testimony, evidence, and argument as may be
19 pertinent to the charges or to their defense. The Board may
20 continue a hearing from time to time.

21 (c) An individual or organization acting in good faith, and
22 not in a willful and wanton manner, by participating in
23 proceedings of the Board, or by serving as a member of the
24 Board, shall not, as a result of such actions, be subject to
25 criminal prosecution or civil damages.

26 (d) Members of the Board shall be indemnified by the State

1 for any actions occurring within the scope of services on the
2 Board, done in good faith and not willful and wanton in nature.
3 The Attorney General shall defend all such actions unless he or
4 she determines either that there would be a conflict of
5 interest in such representation or that the actions complained
6 of were not in good faith or were willful and wanton.

7 If the Attorney General declines representation, the
8 member has the right to employ counsel of his or her choice,
9 whose fees shall be provided by the State, after approval by
10 the Attorney General, unless there is a determination by a
11 court that the member's actions were not in good faith or were
12 willful and wanton.

13 The member must notify the Attorney General within 7 days
14 after receipt of notice of the initiation of any action
15 involving services of the Board. Failure to so notify the
16 Attorney General shall constitute an absolute waiver of the
17 right to a defense and indemnification.

18 The Attorney General shall determine, within 7 days after
19 receiving such notice, whether he or she will undertake to
20 represent the member.

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

22 (225 ILCS 51/100)

23 (Section scheduled to be repealed on January 1, 2018)

24 Sec. 100. Shorthand reporter ~~Stenographer~~; transcript. The
25 Department, at its expense, shall provide a shorthand reporter

1 to take down the testimony and preserve a record of all
2 proceedings at the formal hearing of any case involving the
3 refusal to issue or renew a license or the discipline of a
4 licensee. The notice of hearing, complaint, and all other
5 documents in the nature of pleadings, written motions filed in
6 the proceedings, the transcript of testimony, the report of the
7 Board, and the order of the Department shall be the record of
8 the proceeding.

9 (Source: P.A. 90-532, eff. 11-14-97.)

10 (225 ILCS 51/110)

11 (Section scheduled to be repealed on January 1, 2018)

12 Sec. 110. Findings and recommendations. At the conclusion
13 of the hearing the Board shall present to the Secretary a
14 written report of its findings and recommendations. The report
15 shall contain a finding of whether or not the accused entity
16 violated this Act or failed to comply with the conditions
17 required in this Act. The Board shall specify the nature of the
18 violation or failure to comply, and shall make its
19 recommendations to the Secretary.

20 The report of findings of fact, conclusions of law, and
21 recommendation of the Board shall be the basis for the
22 Department's order for refusing to issue, restore, or renew a
23 license, or otherwise disciplining a licensee, or for the
24 granting of a license. If the Secretary disagrees with the
25 report, findings of fact, conclusions of law, and

1 recommendations of the Board, the Secretary may issue an order
2 in contravention of the Board's recommendations. ~~The report of~~
3 ~~findings and recommendations of the Board may be the basis for~~
4 ~~the Department's order of refusal or for the granting of~~
5 ~~licensure unless the Secretary shall determine that the Board's~~
6 ~~report is contrary to the manifest weight of the evidence, in~~
7 ~~which case the Secretary may issue an order in contravention of~~
8 ~~the Board's report.~~ The finding is not admissible in evidence
9 against the entity in a criminal prosecution brought for the
10 violation of this Act, but the hearing and finding are not a
11 bar to a criminal prosecution brought for the violation of this
12 Act.

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

14 (225 ILCS 51/115)

15 (Section scheduled to be repealed on January 1, 2018)

16 Sec. 115. Rehearing on motion. In a case involving the
17 refusal to issue or renew a license or the discipline of a
18 licensee, a copy of the Board's report shall be served upon the
19 respondent by the Department, either personally or as provided
20 in this Act for the service of the notice of hearing. Within 20
21 days after such service, the respondent may present to the
22 Department a motion in writing for a rehearing, which shall
23 specify the particular grounds for the rehearing. If no motion
24 for rehearing is filed, then upon the expiration of the time
25 specified for filing the motion, or if a motion for rehearing

1 is denied, then upon such denial the Secretary may enter an
2 order in accordance with recommendations of the Board except as
3 provided in Sections 110 and ~~Section~~ 120 of this Act.

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

5 (225 ILCS 51/125)

6 (Section scheduled to be repealed on January 1, 2018)

7 Sec. 125. Hearing officer. The Secretary has the authority
8 to appoint an attorney duly licensed to practice law in the
9 State of Illinois to serve as the hearing officer in an action
10 for refusal to issue or renew a license, or for the discipline
11 of a licensee. ~~The Secretary shall notify the Board of an~~
12 ~~appointment.~~ The hearing officer shall have full authority to
13 conduct the hearing. The hearing officer shall report his or
14 her findings and recommendations to the Board and the
15 Secretary. The Board shall have 60 days from receipt of the
16 report to review the report of the hearing officer and present
17 its findings of fact, conclusions of law and recommendation to
18 the Secretary. If the Board fails to present its report within
19 the 60-day ~~60-day~~ period, the respondent may request in writing
20 a direct appeal to the Secretary, in which case the Secretary
21 ~~may shall, within 7 calendar days after the request, issue an~~
22 ~~order directing the Board to issue its findings of fact,~~
23 ~~conclusions of law, and recommendations to the Secretary within~~
24 ~~30 calendar days after such order. If the Board fails to issue~~
25 ~~its findings of fact, conclusions of law, and recommendations~~

1 ~~within that time frame to the Secretary after the entry of such~~
2 ~~order, the Secretary shall, within 30 calendar days thereafter,~~
3 issue an order based upon the report of the hearing officer and
4 the record of the proceedings or issue an order remanding the
5 matter back to the hearing officer for additional proceedings
6 in accordance with the order. ~~If (i) a direct appeal is~~
7 ~~requested, (ii) the Board fails to issue its findings of fact,~~
8 ~~conclusions of law, and recommendations within the 30 day~~
9 ~~mandate from the Secretary or the Secretary fails to order the~~
10 ~~Board to do so, and (iii) the Secretary fails to issue an order~~
11 ~~within 30 calendar days thereafter, then the hearing officer's~~
12 ~~report is deemed accepted and a final decision of the~~
13 ~~Secretary.~~ Notwithstanding any other provision of this
14 Section, if the Secretary, upon review, determines that
15 substantial justice has not been done in the revocation,
16 suspension, or refusal to issue or renew a license or other
17 disciplinary action taken as the result of the entry of the
18 hearing officer's or Board's report, the Secretary may order a
19 rehearing by the same or other examiners. If the Secretary
20 disagrees in any regard with the report of the Board, the
21 Secretary may issue an order in contravention thereof. ~~If the~~
22 ~~Secretary determines that the Board's report is contrary to the~~
23 ~~manifest weight of the evidence, he or she may issue an order~~
24 ~~in contravention of the Board's report.~~

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

1 (225 ILCS 51/135)

2 (Section scheduled to be repealed on January 1, 2018)

3 Sec. 135. Restoration of license. At any time after the
4 successful completion of a term of probation, suspension, or
5 revocation of a license, the Department may restore the license
6 to the accused entity upon the written recommendation of the
7 Board unless, after an investigation and a hearing, the Board
8 determines that restoration is not in the public interest.
9 Restoration under this Section requires the filing of all
10 applications and payment of all fees required by the
11 Department.

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

13 (225 ILCS 51/150)

14 (Section scheduled to be repealed on January 1, 2018)

15 Sec. 150. Administrative Review Law. All final
16 administrative decisions of the Department are subject to
17 judicial review pursuant to the provisions of the
18 Administrative Review Law, ~~as now or hereafter amended, and all~~
19 ~~rules adopted pursuant to that Law.~~ The term "administrative
20 decision" is defined as in Section 3-101 of the Code of Civil
21 Procedure.

22 Proceedings for judicial review shall be commenced in the
23 circuit court of the county in which the party applying for
24 relief resides, but if the party is not a resident of this
25 State, the venue shall be in Sangamon County.

1 The Department shall not be required to certify any record
2 to the court or file any answer in court or otherwise appear in
3 any court in a judicial review proceeding, unless and until the
4 Department has received from the plaintiff payment of the costs
5 of furnishing and certifying the record, which costs shall be
6 determined by the Department. Exhibits shall be certified
7 without cost. Failure on the part of the plaintiff to file a
8 receipt in court shall be grounds for dismissal of the action.
9 During the pendency and hearing of any and all judicial
10 proceedings incident to a disciplinary action, any sanctions
11 imposed upon the respondent by the Department because of acts
12 or omissions related to the delivery of direct patient care as
13 specified in the Department's final administrative decision
14 shall, as a matter of public policy, remain in full force and
15 effect in order to protect the public pending final resolution
16 of any of the proceedings.

17 (Source: P.A. 90-532, eff. 11-14-97.)

18 (225 ILCS 51/165)

19 (Section scheduled to be repealed on January 1, 2018)

20 Sec. 165. Illinois Administrative Procedure Act. The
21 Illinois Administrative Procedure Act is hereby expressly
22 adopted and incorporated in this Act as if all of the
23 provisions of that Act were included in this Act, except that
24 the provision of subsection (d) of Section 10-65 of the
25 Illinois Administrative Procedure Act, which provides that at

1 hearings the license holder has the right to show compliance
2 with all lawful requirements for retention, continuation, or
3 renewal of a license, is specifically excluded. For the
4 purposes of this Act, the notice required under Section 10-25
5 of the Illinois Administrative Procedure Act is deemed
6 sufficient when served personally upon, mailed to the ~~last~~
7 ~~known~~ address of record of, or emailed to the email address of
8 record of a party.

9 (Source: P.A. 90-532, eff. 11-14-97.)

10 (225 ILCS 51/185 new)

11 Sec. 185. Confidentiality. All information collected by
12 the Department in the course of an examination or investigation
13 of a licensee or applicant, including, but not limited to, any
14 complaint against a licensee filed with the Department and
15 information collected to investigate any such complaint, shall
16 be maintained for the confidential use of the Department and
17 shall not be disclosed. The Department may not disclose the
18 information to anyone other than law enforcement officials,
19 other regulatory agencies that have an appropriate regulatory
20 interest as determined by the Secretary, or to a party
21 presenting a lawful subpoena to the Department. Information and
22 documents disclosed to a federal, State, county, or local law
23 enforcement agency shall not be disclosed by the agency for any
24 purpose to any other agency or person. A formal complaint filed
25 against a licensee by the Department or any order issued by the

1 Department against a licensee or applicant shall be a public
2 record, except as otherwise prohibited by law.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 80/4.28

4 5 ILCS 80/4.38 new

5 225 ILCS 51/10

6 225 ILCS 51/13 new

7 225 ILCS 51/15

8 225 ILCS 51/20

9 225 ILCS 51/25

10 225 ILCS 51/30

11 225 ILCS 51/75

12 225 ILCS 51/95

13 225 ILCS 51/100

14 225 ILCS 51/110

15 225 ILCS 51/115

16 225 ILCS 51/125

17 225 ILCS 51/135

18 225 ILCS 51/150

19 225 ILCS 51/165

20 225 ILCS 51/185 new