



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3845

Introduced 2/25/2009, by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-206	from Ch. 111 1/2, par. 4153-206
225 ILCS 65/50-55	was 225 ILCS 65/10-10
225 ILCS 65/50-65	was 225 ILCS 65/10-25

Amends the Nursing Home Care Act. Provides that upon the effective date of this amendatory Act of the 96th General Assembly, the Board of Nursing, established under the Nurse Practice Act, shall assume all rulemaking authority relating to nursing assistants, habilitation aides, and child care aides under certain Sections of the Act (now, the rulemaking authority vests in the Illinois Department of Public Health). Provides that upon transfer, the rules established pursuant to the Sections by the Illinois Department of Public Health shall continue in effect as the rules of the Board of Nursing until amended or repealed by the Board of Nursing. Provides that the Illinois Department of Public Health shall continue to administer the rules until July 1, 2010 and then the Department of Financial and Professional Regulation shall have the responsibility of administering the rules. Amends the Nurse Practice Act to reflect the changes in the Nursing Home Care Act. Effective immediately.

LRB096 11332 ASK 21780 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning professional 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 Section 3-206 as follows:

6 (210 ILCS 45/3-206) (from Ch. 111 1/2, par. 4153-206)

7 Sec. 3-206. The Department shall prescribe a curriculum for
8 training nursing assistants, habilitation aides, and child
9 care aides.

10 (a) No person, except a volunteer who receives no
11 compensation from a facility and is not included for the
12 purpose of meeting any staffing requirements set forth by the
13 Department, shall act as a nursing assistant, habilitation
14 aide, or child care aide in a facility, nor shall any person,
15 under any other title, not licensed, certified, or registered
16 to render medical care by the Department of Professional
17 Regulation, assist with the personal, medical, or nursing care
18 of residents in a facility, unless such person meets the
19 following requirements:

20 (1) Be at least 16 years of age, of temperate habits
21 and good moral character, honest, reliable and
22 trustworthy;

23 (2) Be able to speak and understand the English

1 language or a language understood by a substantial
2 percentage of the facility's residents;

3 (3) Provide evidence of employment or occupation, if
4 any, and residence for 2 years prior to his present
5 employment;

6 (4) Have completed at least 8 years of grade school or
7 provide proof of equivalent knowledge;

8 (5) Begin a current course of training for nursing
9 assistants, habilitation aides, or child care aides,
10 approved by the Department, within 45 days of initial
11 employment in the capacity of a nursing assistant,
12 habilitation aide, or child care aide at any facility. Such
13 courses of training shall be successfully completed within
14 120 days of initial employment in the capacity of nursing
15 assistant, habilitation aide, or child care aide at a
16 facility. Nursing assistants, habilitation aides, and
17 child care aides who are enrolled in approved courses in
18 community colleges or other educational institutions on a
19 term, semester or trimester basis, shall be exempt from the
20 120 day completion time limit. The Department shall adopt
21 rules for such courses of training. These rules shall
22 include procedures for facilities to carry on an approved
23 course of training within the facility.

24 The Department may accept comparable training in lieu
25 of the 120 hour course for student nurses, foreign nurses,
26 military personnel, or employes of the Department of Human

1 Services.

2 The facility shall develop and implement procedures,
3 which shall be approved by the Department, for an ongoing
4 review process, which shall take place within the facility,
5 for nursing assistants, habilitation aides, and child care
6 aides.

7 At the time of each regularly scheduled licensure
8 survey, or at the time of a complaint investigation, the
9 Department may require any nursing assistant, habilitation
10 aide, or child care aide to demonstrate, either through
11 written examination or action, or both, sufficient
12 knowledge in all areas of required training. If such
13 knowledge is inadequate the Department shall require the
14 nursing assistant, habilitation aide, or child care aide to
15 complete inservice training and review in the facility
16 until the nursing assistant, habilitation aide, or child
17 care aide demonstrates to the Department, either through
18 written examination or action, or both, sufficient
19 knowledge in all areas of required training; and

20 (6) Be familiar with and have general skills related to
21 resident care.

22 (a-0.5) An educational entity, other than a secondary
23 school, conducting a nursing assistant, habilitation aide, or
24 child care aide training program shall initiate a UCIA criminal
25 history record check prior to entry of an individual into the
26 training program. A secondary school may initiate a UCIA

1 criminal history record check prior to the entry of an
2 individual into a training program.

3 (a-1) Nursing assistants, habilitation aides, or child
4 care aides seeking to be included on the registry on or after
5 January 1, 1996 must authorize the Department of Public Health
6 or its designee that tests nursing assistants to request a UCIA
7 criminal history check and submit all necessary information.

8 (b) Persons subject to this Section shall perform their
9 duties under the supervision of a nurse.

10 (c) It is unlawful for any facility to employ any person in
11 the capacity of nursing assistant, habilitation aide, or child
12 care aide, or under any other title, not licensed by the State
13 of Illinois to assist in the personal, medical, or nursing care
14 of residents in such facility unless such person has complied
15 with this Section.

16 (d) Proof of compliance by each employee with the
17 requirements set out in this Section shall be maintained for
18 each such employee by each facility in the individual personnel
19 folder of the employee.

20 (e) Each facility shall certify to the Department on a form
21 provided by the Department the name and residence address of
22 each employee, and that each employee subject to this Section
23 meets all the requirements of this Section.

24 (f) Any facility that is operated under Section 3-803 shall
25 be exempt from the requirements of this Section.

26 (g) Each skilled nursing and intermediate care facility

1 that admits persons who are diagnosed as having Alzheimer's
2 disease or related dementias shall require all nursing
3 assistants, habilitation aides, or child care aides, who did
4 not receive 12 hours of training in the care and treatment of
5 such residents during the training required under paragraph (5)
6 of subsection (a), to obtain 12 hours of in-house training in
7 the care and treatment of such residents. If the facility does
8 not provide the training in-house, the training shall be
9 obtained from other facilities, community colleges or other
10 educational institutions that have a recognized course for such
11 training. The Department shall, by rule, establish a recognized
12 course for such training. The Department's rules shall provide
13 that such training may be conducted in-house at each facility
14 subject to the requirements of this subsection, in which case
15 such training shall be monitored by the Department.

16 The Department's rules shall also provide for
17 circumstances and procedures whereby any person who has
18 received training that meets the requirements of this
19 subsection shall not be required to undergo additional training
20 if he or she is transferred to or obtains employment at a
21 different facility but remains continuously employed as a
22 nursing assistant, habilitation aide, or child care aide.
23 Licensed sheltered care facilities shall be exempt from the
24 requirements of this Section.

25 (h) Upon the effective date of this amendatory Act of the
26 96th General Assembly, all rulemaking authority relating to

1 nursing assistants, habilitation aides, and child care aides
2 under this Section, Section 3-206.02, and Section 3-206.04 of
3 this Act is transferred to the Board of Nursing, established
4 under Section 50-65 of the Nurse Practice Act. Upon transfer,
5 the rules established pursuant to these Sections by the
6 Illinois Department of Public Health shall continue in effect
7 as the rules of the Board of Nursing until amended or repealed
8 by the Board of Nursing. The Illinois Department of Public
9 Health shall continue to administer these rules until July 1,
10 2010 and then the Department of Financial and Professional
11 Regulation shall have the responsibility of administering the
12 rules relating to nursing assistants, habilitation aides, and
13 child care aides that are promulgated pursuant to this Section,
14 Section 3-206.02, and Section 3-206.04 of this Act.

15 (Source: P.A. 91-598, eff. 1-1-00.)

16 Section 10. The Nurse Practice Act is amended by changing
17 Sections 50-55 and 50-65 as follows:

18 (225 ILCS 65/50-55) (was 225 ILCS 65/10-10)

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

20 Sec. 50-55. Department powers and duties.

21 (a) The Department shall exercise the powers and duties
22 prescribed by the Civil Administrative Code of Illinois for
23 administration of licensing acts and shall exercise other
24 powers and duties necessary for effectuating the purpose of

1 this Act. None of the functions, powers, or duties of the
2 Department with respect to licensure and examination shall be
3 exercised by the Department except upon review by the Board.
4 The Department shall adopt rules to implement, interpret, or
5 make specific the provisions and purposes of this Act; however
6 no such rules shall be adopted by the Department except upon
7 review by the Board.

8 (b) The Department shall prepare and maintain a list of
9 approved programs of professional nursing education and
10 programs of practical nursing education in this State, whose
11 graduates, if they have the other necessary qualifications
12 provided in this Act, shall be eligible to apply for a license
13 to practice nursing in this State.

14 (c) The Department may act upon the recommendations of the
15 Center for Nursing Advisory Board.

16 (d) On July 1, 2010, the Department shall have the
17 responsibility of administering the rules relating to nursing
18 assistants, habilitation aides, and child care aides
19 promulgated pursuant to Sections 3-206, 3-206.02, and 3-206.04
20 of the Nursing Home Care Act.

21 (Source: P.A. 94-1020, eff. 7-11-06; 95-639, eff. 10-5-07.)

22 (225 ILCS 65/50-65) (was 225 ILCS 65/10-25)

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

24 Sec. 50-65. Board.

25 (a) The term of each member of the Board of Nursing and the

1 Advanced Practice Nursing Board serving before the effective
2 date of this amendatory Act of the 95th General Assembly shall
3 terminate on the effective date of this amendatory Act of the
4 95th General Assembly. Beginning on the effective date of this
5 amendatory Act of the 95th General Assembly, the Secretary
6 shall solicit recommendations from nursing organizations and
7 appoint the Board of Nursing, which shall consist of 13
8 members, one of whom shall be a practical nurse; one of whom
9 shall be a practical nurse educator; one of whom shall be a
10 registered professional nurse in practice; one of whom shall be
11 an associate degree nurse educator; one of whom shall be a
12 baccalaureate degree nurse educator; one of whom shall be a
13 nurse who is actively engaged in direct care; one of whom shall
14 be a registered professional nurse actively engaged in direct
15 care; one of whom shall be a nursing administrator; 4 of whom
16 shall be advanced practice nurses representing CNS, CNP, CNM,
17 and CRNA practice; and one of whom shall be a public member who
18 is not employed in and has no material interest in any health
19 care field. The Board shall receive actual and necessary
20 expenses incurred in the performance of their duties.

21 Members of the Board of Nursing and the Advanced Practice
22 Nursing Board whose terms were terminated by this amendatory
23 Act of the 95th General Assembly shall be considered for
24 membership positions on the Board.

25 All nursing members of the Board must be (i) residents of
26 this State, (ii) licensed in good standing to practice nursing

1 in this State, (iii) graduates of an approved nursing program,
2 with a minimum of 5 years experience in the field of nursing,
3 and (iv) at the time of appointment to the Board, actively
4 engaged in nursing or work related to nursing.

5 Membership terms shall be for 3 years, except that in
6 making initial appointments, the Secretary shall appoint all
7 members for initial terms of 2, 3, and 4 years and these terms
8 shall be staggered as follows: 3 shall be appointed for terms
9 of 2 years; 4 shall be appointed for terms of 3 years; and 6
10 shall be appointed for terms of 4 years. No member shall be
11 appointed to more than 2 consecutive terms. In the case of a
12 vacated position, an individual may be appointed to serve the
13 unexpired portion of that term; if the term is less than half
14 of a full term, the individual is eligible to serve 2 full
15 terms.

16 The Secretary may remove any member of the Board for
17 misconduct, incapacity, or neglect of duty. The Secretary shall
18 reduce to writing any causes for removal.

19 The Board shall meet annually to elect a chairperson and
20 vice chairperson. The Board shall hold regularly scheduled
21 meetings during the year. A simple majority of the Board shall
22 constitute a quorum at any meeting. Any action taken by the
23 Board must be on the affirmative vote of a simple majority of
24 members. Voting by proxy shall not be permitted. In the case of
25 an emergency where all Board members cannot meet in person, the
26 Board may convene a meeting via an electronic format in

1 accordance with the Open Meetings Act.

2 (b) The Board may perform each of the following activities:

3 (1) Recommend to the Department the adoption and the
4 revision of rules necessary for the administration of this
5 Act;

6 (2) Recommend the approval, denial of approval,
7 withdrawal of approval, or discipline of nursing education
8 programs;

9 (c) The Board shall participate in disciplinary
10 conferences and hearings and make recommendations to the
11 Department regarding disciplinary action taken against a
12 licensee as provided under this Act. Disciplinary conference
13 hearings and proceedings regarding scope of practice issues
14 shall be conducted by a Board member at the same or higher
15 licensure level as the respondent. Participation in an informal
16 conference shall not bar members of the Board from future
17 participation or decisions relating to that matter.

18 (d) With the exception of emergency rules, any proposed
19 rules, amendments, second notice materials, and adopted rule or
20 amendment materials or policy statements concerning advanced
21 practice nurses shall be presented to the Medical Licensing
22 Board for review and comment. The recommendations of both the
23 Board of Nursing and the Medical Licensing Board shall be
24 presented to the Secretary for consideration in making final
25 decisions. Whenever the Board of Nursing and Medical Licensing
26 Board disagree on a proposed rule or policy, the Secretary

1 shall convene a joint meeting of the officers of each Board to
2 discuss resolution of any disagreements.

3 (e) Upon the effective date of this amendatory Act of the
4 96th General Assembly, the Board shall assume all rulemaking
5 authority relating to nursing assistants, habilitation aides,
6 and child care aides under Sections 3-206, 3-206.02, and
7 3-206.04 of the Nursing Home Care Act. The rules established by
8 the Illinois Department of Public Health pursuant to Sections
9 3-206, 3-206.02, and 3-206.04 of the Nursing Home Care Act
10 shall continue in effect as the rules of the Board of Nursing
11 until amended or repealed by the Board of Nursing. The Illinois
12 Department of Public Health shall continue to administer the
13 rules relating to nursing assistants, habilitation aides, and
14 child care aides under Sections 3-206, 3-206.02, and 3-206.04
15 of the Nursing Home Care Act until July 1, 2010, and then the
16 Department of Financial and Professional Regulation shall have
17 the responsibility of administering these rules.

18 (Source: P.A. 95-639, eff. 10-5-07.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.