



Rep. Sara Feigenholtz

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1 AMENDMENT TO SENATE BILL 2958

2 AMENDMENT NO. _____. Amend Senate Bill 2958 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Legislative findings. The General Assembly
5 finds that:

6 (1) Many states have had successful medication
7 aide-certified (MA-C) programs for many years.

8 (2) A medication aide-certified assists with
9 medication administration while under the supervision of a
10 registered professional nurse (RN) in a long-term care
11 facility.

12 Section 5. The Nursing Home Care Act is amended by adding
13 Section 3-305.5 as follows:

14 (210 ILCS 45/3-305.5 new)

15 Sec. 3-305.5. Violation of the Nurse Practice Act. A

1 facility that fails to submit any required report under Section
2 80-10 of the Nurse Practice Act is subject to discipline under
3 this Article.

4 Section 10. The Nurse Practice Act is amended by adding
5 Article 80 as follows:

6 (225 ILCS 65/Art. 80 heading new)

7 ARTICLE 80. MEDICATION AIDE PILOT PROGRAM

8 (225 ILCS 65/80-5 new)

9 Sec. 80-5. Definitions. For the purposes of this Article
10 only:

11 "Direct-care assignment" means an assignment as defined
12 for staffing requirements as direct care staff under 77 CFR
13 300.1230.

14 "Medication aide" means a person who has met the
15 qualifications for licensure under this Article who assists
16 with medication administration while under the supervision of a
17 registered professional nurse (RN) in a long-term care
18 facility.

19 "Qualified employer" means a long-term care facility
20 licensed by the Department of Public Health that meets the
21 qualifications set forth in Section 80-10.

22 (225 ILCS 65/80-10 new)

1 Sec. 80-10. Pilot program.

2 (a) The Department shall administer and enforce a Licensed
3 Medication Aide Pilot Program. The program shall last for a
4 period of 3 years, as determined by rule. During the 3-year
5 pilot program, the Department shall license and regulate
6 licensed medication aides. As part of the pilot program, no
7 more than 10 skilled nursing homes, which shall be
8 geographically located throughout the State, shall be
9 authorized to employ licensed medication aides, as approved by
10 the Department. The Department may consult with the Department
11 of Public Health as necessary to properly administer and
12 enforce this Article.

13 (b) To be approved as a qualified facility for the duration
14 of the pilot program, a facility must:

15 (1) be licensed in good standing as a skilled nursing
16 facility by the Department of Public Health;

17 (2) have an overall Five Star Quality Rating of 3, 4,
18 or 5 from the most recent data available on the Centers for
19 Medicare and Medicaid Services' website;

20 (3) certify that the employment of a licensed
21 medication aide will not replace or diminish the employment
22 of a registered nurse or licensed practical nurse at the
23 facility;

24 (4) certify that a registered nurse will be on-duty and
25 present in the facility to delegate and supervise the
26 medication administration by a licensed medication aide at

1 all times;

2 (5) certify that, with the exception of licensed health
3 care professionals, only licensed medication aides will be
4 employed in the capacity of administering medication; and

5 (6) provide information regarding patient safety,
6 efficiency, and errors as determined by the Department;
7 failure to submit any required report may be grounds for
8 discipline or sanctions under this Act, the Nursing Home
9 Administrators Licensing and Disciplinary Act, or the
10 Nursing Home Care Act.

11 The Department shall submit a report regarding patient
12 safety, efficiency, and errors, as determined by rule, to the
13 General Assembly no later than 6 months after termination of
14 the pilot program.

15 (225 ILCS 65/80-15 new)

16 Sec. 80-15. Licensure requirement; exempt activities.

17 (a) On and after January 1, 2015, no person shall practice
18 as a medication aide or hold himself or herself out as a
19 licensed medication aide in this State unless he or she is
20 licensed under this Article.

21 (b) Nothing in this Article shall be construed as
22 preventing or restricting the practice, services, or
23 activities of:

24 (1) any person licensed in this State by any other law
25 from engaging in the profession or occupation for which he

1 or she is licensed;

2 (2) any person employed as a medication aide by the
3 government of the United States, if such person practices
4 as a medication aide solely under the direction or control
5 of the organization by which he or she is employed; or

6 (3) any person pursuing a course of study leading to a
7 certificate in medication aide at an accredited or approved
8 educational program if such activities and services
9 constitute a part of a supervised course of study and if
10 such person is designated by a title which clearly
11 indicates his or her status as a student or trainee.

12 (c) Nothing in this Article shall be construed to limit the
13 delegation of tasks or duties by a physician, dentist, advanced
14 practice nurse, or podiatric physician as authorized by law.

15 (225 ILCS 65/80-20 new)

16 Sec. 80-20. Scope of practice.

17 (a) A licensed medication aide may only practice in a
18 qualified facility.

19 (b) Licensed medication aides must be supervised by and
20 receive delegation by a registered nurse that is on-duty and
21 present in the facility at all times.

22 (c) Licensed medication aides shall not have a direct-care
23 assignment when scheduled to work as a licensed medication
24 aide, but may assist residents as needed.

25 (d) Licensed medication aides shall not administer any

1 medication until a physician has conducted an initial
2 assessment of the resident.

3 (e) Licensed medication aides shall not administer any
4 Schedule II controlled substances as set forth in the Illinois
5 Controlled Substances Act, and may not administer any
6 subcutaneous, intramuscular, intradermal, or intravenous
7 medication.

8 (225 ILCS 65/80-25 new)

9 Sec. 80-25. Unlicensed practice; violation; civil penalty.

10 (a) In addition to any other penalty provided by law, any
11 person who practices, offers to practice, attempts to practice,
12 or holds oneself out to practice as a medication aide without
13 being licensed under this Act shall, in addition to any other
14 penalty provided by law, pay a civil penalty to the Department
15 in an amount not to exceed \$10,000 for each offense as
16 determined by the Department. The civil penalty shall be
17 assessed by the Department after a hearing is held in
18 accordance with the provisions set forth in this Act regarding
19 the provision of a hearing for the discipline of a licensee.

20 (b) The Department has the authority and power to
21 investigate any and all unlicensed activity.

22 (c) The civil penalty shall be paid within 60 days after
23 the effective date of the order imposing the civil penalty. The
24 order shall constitute a judgment and may be filed and
25 execution had thereon in the same manner as any judgment from

1 any court of record.

2 (225 ILCS 65/80-30 new)

3 Sec. 80-30. Applications for original licensure.

4 Applications for original licensure shall be made to the
5 Department in writing on forms prescribed by the Department and
6 shall be accompanied by the required fee, which shall not be
7 returnable. The application shall require such information as,
8 in the judgment of the Department, will enable the Department
9 to pass on the qualifications of the applicant for licensure.
10 Applicants have 3 years after the date of application to
11 complete the application process. If the process has not been
12 completed within 3 years, the application shall be denied, the
13 fee forfeited, and the applicant must reapply and meet the
14 requirements in effect at the time of reapplication.

15 (225 ILCS 65/80-35 new)

16 Sec. 80-35. Examinations. The Department shall authorize
17 examinations of applicants for a license under this Article at
18 the times and place as it may designate. The examination shall
19 be of a character to give a fair test of the qualifications of
20 the applicant to practice as a medication aide.

21 Applicants for examination as a medication aide shall be
22 required to pay, either to the Department or the designated
23 testing service, a fee covering the cost of providing the
24 examination. Failure to appear for the examination on the

1 scheduled date, at the time and place specified, after the
2 applicant's application for examination has been received and
3 acknowledged by the Department or the designated testing
4 service, shall result in the forfeiture of the examination fee.

5 If an applicant fails to pass an examination for
6 registration under this Act within 3 years after filing his or
7 her application, the application shall be denied. The applicant
8 may thereafter make a new application accompanied by the
9 required fee; however, the applicant shall meet all
10 requirements in effect at the time of subsequent application
11 before obtaining licensure. The Department may employ
12 consultants for the purposes of preparing and conducting
13 examinations.

14 (225 ILCS 65/80-40 new)

15 Sec. 80-40. Licensure by examination. An applicant for
16 licensure by examination to practice as a licensed medication
17 aide must:

18 (1) submit a completed written application on forms
19 provided by the Department and fees as established by the
20 Department;

21 (2) be age 18 or older;

22 (3) have a high school diploma or a certificate of
23 general education development (GED);

24 (4) demonstrate the able to speak, read, and write the
25 English language, as determined by rule;

1 (5) demonstrate competency in math, as determined by
2 rule;

3 (6) be currently certified in good standing as a
4 certified nursing assistant and provide proof of 2,000
5 hours of practice as a certified nursing assistant within 3
6 years before application for licensure;

7 (7) submit to the criminal history records check
8 required under Section 50-35 of this Act;

9 (8) have not engaged in conduct or behavior determined
10 to be grounds for discipline under this Act;

11 (9) be currently certified to perform cardiopulmonary
12 resuscitation by the American Heart Association or
13 American Red Cross;

14 (10) have successfully completed a course of study
15 approved by the Department as defined by rule; to be
16 approved, the program must include a minimum of 60 hours of
17 classroom-based medication aide education, a minimum of 10
18 hours of simulation laboratory study, and a minimum of 30
19 hours of registered nurse-supervised clinical practicum
20 with progressive responsibility of patient medication
21 assistance;

22 (11) have successfully completed the Medication Aide
23 Certification Examination or other examination authorized
24 by the Department; and

25 (12) submit proof of employment by a qualifying
26 facility.

1 (225 ILCS 65/80-45 new)

2 Sec. 80-45. Expiration of license. The expiration date for
3 each license to practice as a licensed medication aide shall be
4 set by the rule. Licenses under this Article may not be renewed
5 or restored.

6 (225 ILCS 65/80-50 new)

7 Sec. 80-50. Administration and enforcement. Licenses
8 issued under this Article are subject to Article 70, including
9 grounds for disciplinary action under Section 70-5.

10 (225 ILCS 65/80-55 new)

11 Sec. 80-55. Title. Any person who is issued a license as a
12 medication aide under the terms of this Act shall use the words
13 "licensed medication aide" in connection with his or her name
14 to denote his or her licensure under this Act.

15 (225 ILCS 65/80-60 new)

16 Sec. 80-60. Rules. The Department shall files rules to
17 administer this Article within 90 days of the effective date of
18 this Act.

19 Section 15. The Nursing Home Administrators Licensing and
20 Disciplinary Act is amended by changing Section 17 as follows:

1 (225 ILCS 70/17) (from Ch. 111, par. 3667)

2 Sec. 17. Grounds for disciplinary action.

3 (a) The Department may impose fines not to exceed \$10,000
4 or may refuse to issue or to renew, or may revoke, suspend,
5 place on probation, censure, reprimand or take other
6 disciplinary or non-disciplinary action with regard to the
7 license of any person, for any one or combination of the
8 following causes:

9 (1) Intentional material misstatement in furnishing
10 information to the Department.

11 (2) Conviction of or entry of a plea of guilty or nolo
12 contendere to any crime that is a felony under the laws of
13 the United States or any state or territory thereof or a
14 misdemeanor of which an essential element is dishonesty or
15 that is directly related to the practice of the profession
16 of nursing home administration.

17 (3) Making any misrepresentation for the purpose of
18 obtaining a license, or violating any provision of this
19 Act.

20 (4) Immoral conduct in the commission of any act, such
21 as sexual abuse or sexual misconduct, related to the
22 licensee's practice.

23 (5) Failing to respond within 30 days, to a written
24 request made by the Department for information.

25 (6) Engaging in dishonorable, unethical or
26 unprofessional conduct of a character likely to deceive,

1 defraud or harm the public.

2 (7) Habitual use or addiction to alcohol, narcotics,
3 stimulants, or any other chemical agent or drug which
4 results in the inability to practice with reasonable
5 judgment, skill or safety.

6 (8) Discipline by another U.S. jurisdiction if at least
7 one of the grounds for the discipline is the same or
8 substantially equivalent to those set forth herein.

9 (9) A finding by the Department that the licensee,
10 after having his or her license placed on probationary
11 status has violated the terms of probation.

12 (10) Willfully making or filing false records or
13 reports in his or her practice, including but not limited
14 to false records filed with State agencies or departments.

15 (11) Physical illness, mental illness, or other
16 impairment or disability, including, but not limited to,
17 deterioration through the aging process, or loss of motor
18 skill that results in the inability to practice the
19 profession with reasonable judgment, skill or safety.

20 (12) Disregard or violation of this Act or of any rule
21 issued pursuant to this Act.

22 (13) Aiding or abetting another in the violation of
23 this Act or any rule or regulation issued pursuant to this
24 Act.

25 (14) Allowing one's license to be used by an unlicensed
26 person.

1 (15) (Blank).

2 (16) Professional incompetence in the practice of
3 nursing home administration.

4 (17) Conviction of a violation of Section 12-19 or
5 subsection (a) of Section 12-4.4a of the Criminal Code of
6 1961 or the Criminal Code of 2012 for the abuse and
7 criminal neglect of a long term care facility resident.

8 (18) Violation of the Nursing Home Care Act, the
9 Specialized Mental Health Rehabilitation Act of 2013, or
10 the ID/DD Community Care Act or of any rule issued under
11 the Nursing Home Care Act, the Specialized Mental Health
12 Rehabilitation Act of 2013, or the ID/DD Community Care
13 Act. A final adjudication of a Type "AA" violation of the
14 Nursing Home Care Act made by the Illinois Department of
15 Public Health, as identified by rule, relating to the
16 hiring, training, planning, organizing, directing, or
17 supervising the operation of a nursing home and a
18 licensee's failure to comply with this Act or the rules
19 adopted under this Act, shall create a rebuttable
20 presumption of a violation of this subsection.

21 (19) Failure to report to the Department any adverse
22 final action taken against the licensee by a licensing
23 authority of another state, territory of the United States,
24 or foreign country; or by any governmental or law
25 enforcement agency; or by any court for acts or conduct
26 similar to acts or conduct that would constitute grounds

1 for disciplinary action under this Section.

2 (20) Failure to report to the Department the surrender
3 of a license or authorization to practice as a nursing home
4 administrator in another state or jurisdiction for acts or
5 conduct similar to acts or conduct that would constitute
6 grounds for disciplinary action under this Section.

7 (21) Failure to report to the Department any adverse
8 judgment, settlement, or award arising from a liability
9 claim related to acts or conduct similar to acts or conduct
10 that would constitute grounds for disciplinary action
11 under this Section.

12 (22) Failure to submit any required report under
13 Section 80-10 of the Nurse Practice Act.

14 All proceedings to suspend, revoke, place on probationary
15 status, or take any other disciplinary action as the Department
16 may deem proper, with regard to a license on any of the
17 foregoing grounds, must be commenced within 5 years next after
18 receipt by the Department of (i) a complaint alleging the
19 commission of or notice of the conviction order for any of the
20 acts described herein or (ii) a referral for investigation
21 under Section 3-108 of the Nursing Home Care Act.

22 The entry of an order or judgment by any circuit court
23 establishing that any person holding a license under this Act
24 is a person in need of mental treatment operates as a
25 suspension of that license. That person may resume their
26 practice only upon the entry of a Department order based upon a

1 finding by the Board that they have been determined to be
2 recovered from mental illness by the court and upon the Board's
3 recommendation that they be permitted to resume their practice.

4 The Department, upon the recommendation of the Board, may
5 adopt rules which set forth standards to be used in determining
6 what constitutes:

7 (i) when a person will be deemed sufficiently
8 rehabilitated to warrant the public trust;

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

12 (iii) immoral conduct in the commission of any act
13 related to the licensee's practice; and

14 (iv) professional incompetence in the practice of
15 nursing home administration.

16 However, no such rule shall be admissible into evidence in
17 any civil action except for review of a licensing or other
18 disciplinary action under this Act.

19 In enforcing this Section, the Department or Board, upon a
20 showing of a possible violation, may compel any individual
21 licensed to practice under this Act, or who has applied for
22 licensure pursuant to this Act, to submit to a mental or
23 physical examination, or both, as required by and at the
24 expense of the Department. The examining physician or
25 physicians shall be those specifically designated by the
26 Department or Board. The Department or Board may order the

1 examining physician to present testimony concerning this
2 mental or physical examination of the licensee or applicant. No
3 information shall be excluded by reason of any common law or
4 statutory privilege relating to communications between the
5 licensee or applicant and the examining physician. The
6 individual to be examined may have, at his or her own expense,
7 another physician of his or her choice present during all
8 aspects of the examination. Failure of any individual to submit
9 to mental or physical examination, when directed, shall be
10 grounds for suspension of his or her license until such time as
11 the individual submits to the examination if the Department
12 finds, after notice and hearing, that the refusal to submit to
13 the examination was without reasonable cause.

14 If the Department or Board finds an individual unable to
15 practice because of the reasons set forth in this Section, the
16 Department or Board shall require such individual to submit to
17 care, counseling, or treatment by physicians approved or
18 designated by the Department or Board, as a condition, term, or
19 restriction for continued, reinstated, or renewed licensure to
20 practice; or in lieu of care, counseling, or treatment, the
21 Department may file, or the Board may recommend to the
22 Department to file, a complaint to immediately suspend, revoke,
23 or otherwise discipline the license of the individual. Any
24 individual whose license was granted pursuant to this Act or
25 continued, reinstated, renewed, disciplined or supervised,
26 subject to such terms, conditions or restrictions who shall

1 fail to comply with such terms, conditions or restrictions
2 shall be referred to the Secretary for a determination as to
3 whether the licensee shall have his or her license suspended
4 immediately, pending a hearing by the Department. In instances
5 in which the Secretary immediately suspends a license under
6 this Section, a hearing upon such person's license must be
7 convened by the Board within 30 days after such suspension and
8 completed without appreciable delay. The Department and Board
9 shall have the authority to review the subject administrator's
10 record of treatment and counseling regarding the impairment, to
11 the extent permitted by applicable federal statutes and
12 regulations safeguarding the confidentiality of medical
13 records.

14 An individual licensed under this Act, affected under this
15 Section, shall be afforded an opportunity to demonstrate to the
16 Department or Board that he or she can resume practice in
17 compliance with acceptable and prevailing standards under the
18 provisions of his or her license.

19 (b) Any individual or organization acting in good faith,
20 and not in a wilful and wanton manner, in complying with this
21 Act by providing any report or other information to the
22 Department, or assisting in the investigation or preparation of
23 such information, or by participating in proceedings of the
24 Department, or by serving as a member of the Board, shall not,
25 as a result of such actions, be subject to criminal prosecution
26 or civil damages.

1 (c) Members of the Board, and persons retained under
2 contract to assist and advise in an investigation, shall be
3 indemnified by the State for any actions occurring within the
4 scope of services on or for the Board, done in good faith and
5 not wilful and wanton in nature. The Attorney General shall
6 defend all such actions unless he or she determines either that
7 there would be a conflict of interest in such representation or
8 that the actions complained of were not in good faith or were
9 wilful and wanton.

10 Should the Attorney General decline representation, a
11 person entitled to indemnification under this Section shall
12 have the right to employ counsel of his or her choice, whose
13 fees shall be provided by the State, after approval by the
14 Attorney General, unless there is a determination by a court
15 that the member's actions were not in good faith or were wilful
16 and wanton.

17 A person entitled to indemnification under this Section
18 must notify the Attorney General within 7 days of receipt of
19 notice of the initiation of any action involving services of
20 the Board. Failure to so notify the Attorney General shall
21 constitute an absolute waiver of the right to a defense and
22 indemnification.

23 The Attorney General shall determine within 7 days after
24 receiving such notice, whether he or she will undertake to
25 represent a person entitled to indemnification under this
26 Section.

1 (d) The determination by a circuit court that a licensee is
2 subject to involuntary admission or judicial admission as
3 provided in the Mental Health and Developmental Disabilities
4 Code, as amended, operates as an automatic suspension. Such
5 suspension will end only upon a finding by a court that the
6 patient is no longer subject to involuntary admission or
7 judicial admission and issues an order so finding and
8 discharging the patient; and upon the recommendation of the
9 Board to the Secretary that the licensee be allowed to resume
10 his or her practice.

11 (e) The Department may refuse to issue or may suspend the
12 license of any person who fails to file a return, or to pay the
13 tax, penalty or interest shown in a filed return, or to pay any
14 final assessment of tax, penalty or interest, as required by
15 any tax Act administered by the Department of Revenue, until
16 such time as the requirements of any such tax Act are
17 satisfied.

18 (f) The Department of Public Health shall transmit to the
19 Department a list of those facilities which receive an "A"
20 violation as defined in Section 1-129 of the Nursing Home Care
21 Act.

22 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;
23 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-104, eff.
24 7-22-13.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".