

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 1. Legislative findings. The General Assembly finds that:

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

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

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

(210 ILCS 45/3-305.5 new)

Sec. 3-305.5. Violation of the Nurse Practice Act. A facility that fails to submit any required report under Section 80-10 of the Nurse Practice Act is subject to discipline under this Article.

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

(225 ILCS 65/Art. 80 heading new)

ARTICLE 80. MEDICATION AIDE PILOT PROGRAM

(225 ILCS 65/80-5 new)

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

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

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

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

(225 ILCS 65/80-10 new)

Sec. 80-10. Pilot program.

(a) The Department shall administer and enforce a Licensed Medication Aide Pilot Program. The program shall last for a period of 3 years, as determined by rule. During the 3-year pilot program, the Department shall license and regulate licensed medication aides. As part of the pilot program, no more than 10 skilled nursing homes, which shall be

geographically located throughout the State, shall be authorized to employ licensed medication aides, as approved by the Department. The Department may consult with the Department of Public Health as necessary to properly administer and enforce this Article.

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

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

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

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

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

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

(6) provide information regarding patient safety, efficiency, and errors as determined by the Department; failure to submit any required report may be grounds for

discipline or sanctions under this Act, the Nursing Home Administrators Licensing and Disciplinary Act, or the Nursing Home Care Act.

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

(225 ILCS 65/80-15 new)

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

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

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

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

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

(3) any person pursuing a course of study leading to a certificate in medication aide at an accredited or approved

educational program if such activities and services constitute a part of a supervised course of study and if such person is designated by a title which clearly indicates his or her status as a student or trainee.

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

(225 ILCS 65/80-20 new)

Sec. 80-20. Scope of practice.

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

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

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

(d) Licensed medication aides shall not administer any medication until a physician has conducted an initial assessment of the resident.

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

(225 ILCS 65/80-25 new)

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

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

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

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

(225 ILCS 65/80-30 new)

Sec. 80-30. Applications for original licensure. Applications for original licensure shall be made to the Department in writing on forms prescribed by the Department and shall be accompanied by the required fee, which shall not be

returnable. The application shall require such information as, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for licensure. Applicants have 3 years after the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(225 ILCS 65/80-35 new)

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

Applicants for examination as a medication aide shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

If an applicant fails to pass an examination for registration under this Act within 3 years after filing his or her application, the application shall be denied. The applicant

may thereafter make a new application accompanied by the required fee; however, the applicant shall meet all requirements in effect at the time of subsequent application before obtaining licensure. The Department may employ consultants for the purposes of preparing and conducting examinations.

(225 ILCS 65/80-40 new)

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

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

(2) be age 18 or older;

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

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

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

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

(7) submit to the criminal history records check



required under Section 50-35 of this Act;

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

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

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

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

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

(225 ILCS 65/80-45 new)

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

(225 ILCS 65/80-50 new)

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

(225 ILCS 65/80-55 new)

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

(225 ILCS 65/80-60 new)

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

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

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

Sec. 17. Grounds for disciplinary action.

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

following causes:

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

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

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

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

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

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

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

(8) Discipline by another U.S. jurisdiction if at least one of the grounds for the discipline is the same or

substantially equivalent to those set forth herein.

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

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

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

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

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

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

(15) (Blank).

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

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

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

(19) Failure to report to the Department any adverse final action taken against the licensee by a licensing authority of another state, territory of the United States, or foreign country; or by any governmental or law enforcement agency; or by any court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

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

(21) Failure to report to the Department any adverse

judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

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

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

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Department order based upon a finding by the Board that they have been determined to be recovered from mental illness by the court and upon the Board's recommendation that they be permitted to resume their practice.

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

(i) when a person will be deemed sufficiently

rehabilitated to warrant the public trust;

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

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

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

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

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Department or Board. The Department or Board may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all

aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board shall require such individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act or continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Board within 30 days after such suspension and



completed without appreciable delay. The Department and Board shall have the authority to review the subject administrator's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

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

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

that the actions complained of were not in good faith or were wilful and wanton.

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

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

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

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and

discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice.

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

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

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

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