

No. 122

AN ACT

SB 387

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

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

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

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

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

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

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

(4) “Examiner” means a member of the board.

(5) “Secretary” means the secretary of the board.

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

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

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

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

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

devote sufficient time to supervise the standards of the nursing home.

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

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

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

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

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

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

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

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

(c) The board shall also have the authority to make rules and

regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the Commonwealth to meet the requirements set forth in appropriate Federal law, and other pertinent Federal authority.

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

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

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

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

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

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

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

(1) Consider any matters relating to the practice of nursing home

administration including any matter pertaining to the administration and enforcement of this act and advise the board thereon.

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

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

Section 6. Qualifications for Admission to Examination.—(a) The board shall admit to examination for licensure as a nursing home administrator any candidate who pays a fee of ten dollars (\$10) and submits evidence of good moral character and suitability prescribed by the board, and, that he is at least twenty-one years old, a citizen of the United States, or that he has duly declared his intention of becoming a citizen of the United States, and that he has completed preliminary education satisfactory to the board.

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

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

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

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

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

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

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

(b) The board may issue a provisional license to any individual applying therefor who (i) has served as a nursing home administrator or in an administrative position in a related health facility during all of the calendar year immediately preceding July 1, 1970 and (ii) meets the standards of the board and of this act relating to good character, suitability, age, and citizenship.

A provisional license shall terminate after two years or at midnight, June 30, 1972, whichever is earlier, and shall be cancelled and be of no legal force or effect thereafter. If, prior to the expiration of such provisional license, the provisional nursing home administrator shall have passed a qualifying examination as required by the board, a nursing home administrator license shall be issued to him.

A provisional license or extension thereof may not be issued to any person after June 30, 1972.

(c) Any license issued by the board under or pursuant to the provisions of this section shall be under the hand and seal of the secretary of the board.

(d) If the board issues a provisional license to any individual, there shall be provided in the Commonwealth during all of the period for which such provisional license remains in effect a program of training and instruction designed to enable all provisional nursing home administrators

to attain the qualifications necessary for licensure as a nursing home administrator.

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

Section 9. Registration.—(a) Every individual who holds a valid license as a nursing home administrator issued by the board under subsection (a) of section 8 shall immediately upon issuance thereof be deemed registered with the board and be issued a certificate of registration. Thereafter, such individual shall biennially be required to apply to the board for a new certificate of registration and report any facts requested by the board on forms provided for such purpose.

(b) Upon making an application for a new certificate of registration such individual shall pay a biennial registration fee of twenty dollars (\$20), and, at the same time shall submit evidence satisfactory to the board that during the biennial period immediately preceding such application for registration he has attended a board approved continuation education program or course of study of not less than twenty-four hours as provided in the rules and regulations of the board.

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

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

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

(f) Only an individual who has qualified as a licensed and registered

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

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

Section 10. Reciprocity.—The board, in its discretion, and otherwise subject to the provisions of this act and the rules and regulations of the board promulgated thereunder prescribing the qualifications for a nursing home administrator license, may endorse a nursing home administrator license issued by the proper authorities of any other state, upon payment of a fee of two dollars (\$2) and upon submission of evidence satisfactory to the board (i) that such other state maintained a system and standard of qualifications and examinations for a nursing home administrator license which were equivalent to those required in this State at the time such other license was issued by such other state, and (ii) that such other state gives similar recognition and endorsement to nursing home administrator licenses of this Commonwealth.

Section 11. Penalties.—Whoever (i) sells or fraudulently obtains or furnishes any nursing home administrator license or aids or abets therein, or (ii) practices as a nursing home administrator under cover of any license or registration illegally or fraudulently obtained or unlawfully issued, or (iii) practices as a nursing home administrator or uses in connection with his name any designation tending to imply that he is a nursing home administrator unless duly licensed and registered to so practice under the provisions of this act, or (iv) practices as a nursing home administrator during the time his license or registration issued under the provisions of this act shall be suspended or revoked, or (v) otherwise violates any of the provisions of this act shall, upon conviction thereof in a summary proceeding be sentenced to pay a fine of not more than two hundred dollars (\$200) or to imprisonment for not more than thirty days, or both.

Section 12. Disciplinary Proceedings.—(a) The license and/or registration of any person practicing or offering to practice nursing home administration, or the license of a provisional nursing home administrator,

may be revoked or suspended, or such licensee may be reprimanded, censured or otherwise disciplined in accordance with the provisions of this section upon decision and after due hearing in any of the following cases:

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

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

(3) Upon proof that such licensee is guilty of fraud or deceit in the practice of nursing home administration or in his admission to such practice.

(4) Upon proof that such licensee has been convicted in a court of competent jurisdiction, either within or without this Commonwealth, of a felony.

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

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

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

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

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

Section 13. Restoration of Licenses and/or Registrations.—(a) The board may, in its discretion, reissue a license and/or registration to any person whose license and/or registration has been revoked except that

there shall be immediate reissuance of license when an appeal has been upheld.

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

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

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

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

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

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

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

APPROVED—The 22nd day of June, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly
No. 122.

A handwritten signature in cursive script, reading "Joseph P. Kelly II". The signature is written in black ink and is positioned above the printed name and title.

Secretary of the Commonwealth.