

CHAPTER 129

(SB 82)

AN ACT relating to long-term care facility administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 216A.010 is amended to read as follows:

As used in this chapter:

- (1) *"Board" means the Kentucky Board of Licensure for Long-term Care Administrators established in Section 4 of this Act;*~~[(The term "nursing home" means a place devoted primarily to the maintenance and operation of facilities for the treatment and care of persons who suffer from illness, disease, deformity or injury not requiring the intensive care normally provided in a hospital, but who do require care in excess of room, board and laundry and who need medical and nursing care.]~~
- ~~(2) The term "nursing home administrator" means any individual responsible for planning, organizing, directing, and controlling the operation of a nursing home, or who in fact performs such functions, whether or not such functions are shared by one or more other persons.~~
- ~~(3) The term "board" means the Kentucky Board of Licensure for Nursing Home Administrators.]~~
- (2) *"Cabinet" means the Cabinet for Health and Family Services;*
- (3) *"Long-term care administrator" means any individual responsible for planning, organizing, directing, and controlling the operation of a licensed long-term care facility, or who in fact performs those functions, whether or not those functions are shared by one (1) or more other persons;*
- (4) *"Long-term care facility" means a health care facility which is defined by the cabinet to be an intermediate care facility, skilled-nursing facility, nursing facility in accordance with Pub. L. No. 100-203, nursing home, or intermediate care facility for the mentally retarded and developmentally disabled; and*
- (5) *"Resident" means any person who is admitted to a long-term care facility.*

➔Section 2. KRS 216A.020 is amended to read as follows:

This chapter may be cited as the "Kentucky *Long-term Care*~~[Nursing Home]~~ Administrators Licensure Act of 2012~~[1970]~~."

➔Section 3. KRS 216A.030 is amended to read as follows:

No *licensed long-term care facility*~~[nursing home]~~ shall operate except under the supervision of a *long-term care*~~[nursing home]~~ administrator, *unless approved by the board through administrative regulation*, and no person shall be a *long-term care*~~[nursing home]~~ administrator unless he *or she* is the holder of a *long-term care*~~[nursing home]~~ administrator's license issued pursuant to this chapter.

➔Section 4. KRS 216A.040 is amended to read as follows:

There shall be a Kentucky Board of Licensure for *Long-term Care*~~[Nursing Home]~~ Administrators located within the *Public Protection*~~[Finance and Administration]~~ Cabinet for administrative and budgetary purposes. The board shall be composed of ten (10) members. The secretary of the Cabinet for Health and Family Services, *or his or her designee*, shall be an ex officio member of the board. The other members of the board shall be appointed by the Governor. One (1) member shall be a practicing hospital administrator, to be appointed from a list of two (2) names submitted by the Kentucky Hospital Association. One (1) member shall be a practicing medical physician, to be appointed from a list of two (2) names submitted by the Kentucky State Medical Association. One (1) member shall be an educator in the field of allied health services. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member shall be a practicing *long-term care*~~[nursing home]~~ administrator appointed from a list of two (2) names submitted by *LeadingAge Kentucky*~~[the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc.]~~. The other four (4) members shall be practicing *long-term care*~~[nursing home]~~ administrators appointed from a list of two (2) names for each vacancy submitted by the Kentucky Association of Health Care Facilities and duly licensed under this chapter. *No person who has been disciplined in the previous five (5) years by the board, or by another state's board of licensure governing the same profession, shall be appointed to the board*~~], except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required in this chapter~~.

➔Section 5. KRS 216A.050 is amended to read as follows:

The ~~appointive members of the board shall hold office for terms of four (4) years and until successors are appointed and qualified except that the terms of office of the eight (8) members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years and two (2) members shall be appointed for four (4) years and the respective terms of the first members shall be designated by the Governor at the time of their appointment. Thereafter, the }term of office of each member shall be four (4) years or until a successor is appointed and qualified. No appointive member shall serve more than two (2) full consecutive terms.~~

➔Section 6. KRS 216A.060 is amended to read as follows:

- (1) The board shall elect annually from its membership a *chair and vice chair*~~{chairman and vice chairman}~~. The board shall hold *three (3)*~~{two (2)}~~ or more meetings each year. At any meeting a majority *of the appointed members with unexpired terms* shall constitute a quorum. The board may procure specialized consultation through the formation of such technical advisory committees as it may deem necessary in the execution of its responsibilities.
- (2) Members of the board shall receive per diem compensation to be established by *administrative regulation*~~{the secretary of the Finance and Administration Cabinet}~~. This compensation shall not exceed *one hundred twenty*~~{fifty}~~ dollars *(\$120)*~~{(\$50)}~~ per day. Members shall be reimbursed for actual and necessary expenses.

➔Section 7. KRS 216A.070 is amended to read as follows:

- (1) The board shall:
 - (a) Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a *long-term care*~~{nursing home}~~ administrator, which standards shall be designed to *ensure*~~{insure}~~ that *long-term care*~~{nursing home}~~ administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;
 - (b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets the standards;
 - (c) Issue licenses to individuals determined, after application of appropriate techniques, to meet established standards~~{, and revoke or suspend, after hearing, licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of the standards}~~;
 - (d) Establish and carry out procedures designed to *ensure*~~{insure}~~ that individuals licensed as *long-term care*~~{nursing home}~~ administrators will, during any period that they serve as such, comply with the requirements of the standards;
 - (e) 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 the standards; and
 - (f) *Apply commensurate disciplinary action, following a hearing pursuant to KRS Chapter 13B, including permanent license revocation, suspension, or placement of probationary conditions on the licensee, issuance of a fine not to exceed two thousand dollars (\$2,000) per violation, or admonishing the licensee*~~{Conduct a continuing study and investigation 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}~~.
- (2) The board or any committee or member thereof or any hearing officer designated by the board, acting in an official capacity, shall have the authority to conduct administrative hearings in accordance with KRS Chapter 13B concerning all matters within the jurisdiction of the board.
- (3) The board shall also have the authority to promulgate administrative regulations necessary for the proper performance of its duties, and to take other actions necessary to enable the state to meet the requirements set forth in Section 1908 of the Social Security Act, the federal rules and regulations promulgated thereunder, and other pertinent federal authority or amendment thereto.

- (4) The board may, when emergency conditions warrant, as determined by the board, authorize the issuance of a temporary permit to an individual to practice the art of **long-term care**~~nursing home~~ administration if it finds the authorization will not endanger the health and safety of the occupants of the **licensed long-term care facility**~~nursing home~~. A temporary permit shall be valid for a period determined by the board not to exceed six (6) months and shall not be renewed. The fee for a temporary permit shall be determined by regulations of the board.

➔Section 8. KRS 216A.080 is amended to read as follows:

- (1) No person shall be eligible to practice **long-term care**~~nursing home~~ administration in this state unless:
- (a) He *or she* shall make written application to the board on such forms as are provided therefor;
 - (b) ~~He is at least twenty one (21) years of age;~~
 - (c) ~~He or she~~ is a citizen of the United States or has declared his *or her* intent to become a citizen of the United States;
 - (d) ~~(c)~~ He *or she* provides proof satisfactory to the board that he *or she* is of good moral character and is otherwise suitable;
 - (e) ~~(d)~~ He *or she* has passed an examination **approved**~~administered~~ by the board **by promulgation of an administrative regulation**; and
 - (f) ~~(e)~~ He *or she* meets such other requirements as may be established by the board **by promulgation of an administrative regulation, so long as the**~~provided that such~~ requirements are uniform and are applied to all other applicants for a license.
- (2) When an applicant ~~has~~~~shall have~~ met the requirements as provided herein, the board shall issue ~~the~~~~to such~~ applicant a license to practice **long-term care**~~nursing home~~ administration in this state.

➔Section 9. KRS 216A.090 is amended to read as follows:

Every holder of a **long-term care**~~nursing home~~ administrator's license shall renew his *or her* license biennially by making application to the board **either online via Internet access or** on forms provided therefor. The board may refuse to renew any license for failure to comply with the provisions of this chapter or the **administrative**~~rules and~~ regulations promulgated under this chapter, including continuing education requirements.

➔Section 10. KRS 216A.130 is amended to read as follows:

- (1) The board, in its discretion, and otherwise subject to the provisions of this chapter and the **administrative**~~rules and~~ regulations of the board promulgated thereunder prescribing the qualifications for a **long-term care**~~nursing home~~ administrator license, may issue~~such~~ a license to a **long-term care**~~nursing home~~ administrator possessing a license issued by the proper authorities of any other state, upon payment of a fee set by the board, and upon submission of evidence satisfactory to the board:
- (a) ~~(1)~~ That ~~the~~~~such~~ other state maintained a system and standard of qualifications and examinations for a **long-term care**~~nursing home~~ administrator license which were substantially equivalent to those required in this state at the time ~~the~~~~such~~ other license was issued by ~~the~~~~such~~ other state; and
 - (b) ~~(2)~~ That **the license was issued by the other state at least two (2) years prior to application for endorsement**~~such other state gives similar recognition and indorsement to nursing home administrator licenses of this state~~.
- (2) **The board, in its discretion, may refuse to issue a license to a long-term care administrator possessing a license issued by the proper authorities of any other state if the applicant for endorsement has been disciplined by the other state's board in the past five (5) years.**

➔Section 11. KRS 216A.150 is amended to read as follows:

It shall be a misdemeanor for any person to:

- (1) Sell or fraudulently obtain or furnish any license or aid or abet therein;~~or~~
- (2) Practice as a **long-term care**~~nursing home~~ administrator, under cover of any license illegally or fraudulently obtained or unlawfully issued;~~or~~

- (3) Practice as a *long-term care*~~[nursing home]~~ administrator or use in connection with his or her name any designation tending to imply that he or she is a *long-term care*~~[nursing home]~~ administrator unless duly licensed to so practice under the provisions of this chapter;~~;~~ or
- (4) Practice as a *long-term care*~~[nursing home]~~ administrator during the time his or her license issued under the provisions of this chapter shall be suspended or revoked~~;~~ or
- ~~(5) Otherwise violate any of the provisions of this chapter or the rules and regulations of the board.~~

➔Section 12. KRS 216A.990 is amended to read as follows:

Misdemeanors shall be punishable by a fine of not~~[less than ten dollars (\$10) nor]~~ more than one hundred dollars (\$100). Each day of violation shall constitute a separate offense.

➔Section 13. The following KRS sections are repealed:

216A.100 Provisional license.

216A.120 Courses of instruction -- Approval of out-of-state courses.

Signed by Governor April 11, 2012.