

ASSEMBLY BILL

No. 1409

Introduced by Assembly Member Chan

February 23, 2001

An act to amend Sections 101, 144, and 205 of, and to repeal Chapter 8.5 (commencing with Section 3901) of Division 2 of, the Business and Professions Code, to add Chapter 2.35 (commencing with Section 1416) to Division 2 of, and to repeal Section 1429.5 of, the Health and Safety Code, relating to nursing homes, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1409, as introduced, Chan. Nursing home administrators.

Existing law, the Nursing Home Administrator's License law, which is contained in the Business and Professions Code, provides for the licensing and regulation of nursing home administrators by the State Board of Nursing Home Administrators of the State of California and specifies the duties of the board.

This bill would repeal these provisions. The bill, instead, would enact provisions in the Health and Safety Code that would establish in the State Department of Health Services a Nursing Home Administrator Program (NHAP) that would license and regulate nursing home administrators. In this regard, the bill would specify duties and authority of the program, define various terms, specify licensing requirements, including application procedures, qualifications for and content of licensing examinations, and application and examination fee requirements, provide procedures for out-of-state nursing home administrator licensees to obtain a one-year provisional license, and require the department to develop a specified administrator-in-training

program and establish a designated citation and administrative fine assessment system.

The bill would make it a misdemeanor to engage in certain subversive activities related to the implementation of the nursing administrator licensing examination. Because the bill would create a new crime, it would impose a state-mandated local program.

Existing law provides for the Nursing Home Administrator's State License Examining Board Fund, a continuously appropriated fund, in the Professions and Vocations Fund in the State Treasury.

Existing law specifies a schedule of fees that are charged for the application and examination of applicants for licensure as nursing home administrators and requires those fees to be deposited in the Nursing Home Administrator's State License Examining Board Fund.

This bill would rename the fund the Nursing Home Administrator's State License Examining Fund and continue the fund in existence in the State Treasury. The bill would revise the fee schedule. The bill would also require that fines collected under the citation and administrative fine assessment system required under this bill be deposited in the Nursing Home Administrator's State License Examining Fund.

Because the bill would increase the amount deposited into the Nursing Home Administrator's State License Examining Fund, as renamed by this bill, which is a continuously appropriated fund, it would make an appropriation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 101 of the Business and Professions
- 2 Code is amended to read:
- 3 101. The department is comprised of:
- 4 (a) The Dental Board of California.
- 5 (b) The Medical Board of California.
- 6 (c) The State Board of Optometry.



- 1 (d) The California State Board of Pharmacy.
- 2 (e) The Veterinary Medical Board.
- 3 (f) The California Board of Accountancy.
- 4 (g) The California Architects Board.
- 5 (h) The Barbering and Cosmetology Program.
- 6 (i) The Board for Professional Engineers and Land Surveyors.
- 7 (j) The Contractors' State License Board.
- 8 (k) The Funeral Directors and Embalmers Program.
- 9 (l) The Structural Pest Control Board.
- 10 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 11 (n) The Board of Registered Nursing.
- 12 (o) The Board of Behavioral Sciences.
- 13 (p) The State Athletic Commission.
- 14 (q) The Cemetery Program.
- 15 (r) The State Board of Guide Dogs for the Blind.
- 16 (s) The Bureau of Security and Investigative Services.
- 17 (t) The Court Reporters Board of California.
- 18 (u) The Board of Vocational Nursing and Psychiatric
- 19 Technicians.
- 20 (v) The Landscape Architects Technical Committee.
- 21 (w) The Bureau of Electronic and Appliance Repair.
- 22 (x) The Division of Investigation.
- 23 (y) The Bureau of Automotive Repair.
- 24 (z) The State Board of Registration for Geologists and
- 25 Geophysicists.
- 26 ~~(aa) The State Board of Nursing Home Administrators.~~
- 27 ~~(ab) The Respiratory Care Board of California.~~
- 28 ~~(ac) —~~
- 29 (ab) The Acupuncture Board.
- 30 ~~(ad) —~~
- 31 (ac) The Board of Psychology.
- 32 ~~(ae) —~~
- 33 (ad) The California Board of Podiatric Medicine.
- 34 ~~(af) —~~
- 35 (ae) The Physical Therapy Board of California.
- 36 ~~(ag) —~~
- 37 (af) The Arbitration Review Program.
- 38 ~~(ah) —~~
- 39 (ag) The Committee on Dental Auxiliaries.
- 40 ~~(ai) —~~

- 1 (ah) The Hearing Aid Dispensers Advisory Commission.
2 ~~(aj)~~
3 (ai) The Physician Assistant Committee.
4 ~~(ak)~~
5 (aj) The Speech-Language Pathology and Audiology Board.
6 ~~(al)~~
7 (ak) The Tax Preparers Program.
8 ~~(am)~~
9 (al) The California Board of Occupational Therapy.
10 ~~(an)~~
11 (am) Any other boards, offices, or officers subject to its
12 jurisdiction by law.
13 SEC. 2. Section 144 of the Business and Professions Code is
14 amended to read:
15 144. (a) Notwithstanding any other provision of law, an
16 agency designated in subdivision (b) shall require an applicant to
17 furnish to the agency a full set of fingerprints for purposes of
18 conducting criminal history record checks. Any agency
19 designated in subdivision (b) may obtain and receive, at its
20 discretion, criminal history information from the Department of
21 Justice and the United States Federal Bureau of Investigation.
22 (b) Subdivision (a) applies to the following boards or
23 committees:
24 (1) California Board of Accountancy.
25 (2) State Athletic Commission.
26 (3) Board of Behavioral Sciences.
27 (4) Court Reporters Board of California.
28 (5) State Board of Guide Dogs for the Blind.
29 (6) California State Board of Pharmacy.
30 (7) Board of Registered Nursing.
31 (8) Veterinary Medical Board.
32 (9) Registered Veterinary Technician Committee.
33 (10) Board of Vocational Nursing and Psychiatric Technicians.
34 (11) Respiratory Care Board of California.
35 (12) Hearing Aid Dispensers Advisory Commission.
36 (13) Physical Therapy Board of California.
37 (14) Physician Assistant Committee of the Medical Board of
38 California.
39 (15) Speech-Language Pathology and Audiology Board.
40 (16) Medical Board of California.



1 ~~(17) Board of Nursing Home Administrators.~~

2 ~~(18) State Board of Optometry.~~

3 ~~(19)~~

4 (18) Acupuncture Board.

5 ~~(20)~~

6 (19) Cemetery and Funeral Programs.

7 ~~(21)~~

8 (20) Bureau of Security and Investigative Services.

9 ~~(22)~~

10 (21) Division of Investigation.

11 ~~(23)~~

12 (22) Board of Psychology.

13 ~~(24)~~

14 (23) The California Board of Occupational Therapy.

15 SEC. 3. Section 205 of the Business and Professions Code is
16 amended to read:

17 205. (a) There is in the State Treasury the Professions and
18 Vocations Fund. The fund shall consist of the following special
19 funds:

20 (1) Accountancy Fund.

21 (2) California Board of Architectural Examiners' Fund.

22 (3) Athletic Commission Fund.

23 (4) Barbering and Cosmetology Contingent Fund.

24 (5) Cemetery Fund.

25 (6) Contractors' License Fund.

26 (7) State Dentistry Fund.

27 (8) State Funeral Directors and Embalmers Fund.

28 (9) Guide Dogs for the Blind Fund.

29 (10) Bureau of Home Furnishings and Thermal Insulation
30 Fund.

31 (11) California Board of Architectural Examiners-Landscape
32 Architects Fund.

33 (12) Contingent Fund of the Medical Board of California.

34 (13) Optometry Fund.

35 (14) Pharmacy Board Contingent Fund.

36 (15) Physical Therapy Fund.

37 (16) Private Investigator Fund.

38 (17) Professional Engineers' and Land Surveyors' Fund.

39 (18) Consumer Affairs Fund.

40 (19) Behavioral Sciences Fund.

- 1 (20) Licensed Midwifery Fund.
- 2 (21) Court Reporters' Fund.
- 3 (22) Structural Pest Control Fund.
- 4 (23) Veterinary Medical Board Contingent Fund.
- 5 (24) Vocational Nurses Account of the Vocational Nursing and
- 6 Psychiatric Technicians Fund.
- 7 (25) State Dental Auxiliary Fund.
- 8 (26) Electronic and Appliance Repair Fund.
- 9 (27) Geology and Geophysics Fund.
- 10 (28) Dispensing Opticians Fund.
- 11 (29) Acupuncture Fund.
- 12 (30) Hearing Aid Dispensers Fund.
- 13 (31) Physician Assistant Fund.
- 14 (32) Board of Podiatric Medicine Fund.
- 15 (33) Psychology Fund.
- 16 (34) Respiratory Care Fund.
- 17 (35) Speech-Language Pathology and Audiology Fund.
- 18 (36) Board of Registered Nursing Fund.
- 19 (37) ~~Nursing Home Administrator's State License Examining~~
- 20 ~~Board Fund.~~
- 21 (38) Psychiatric Technician Examiners Account of the
- 22 Vocational Nursing and Psychiatric Technicians Fund.
- 23 ~~(39)~~
- 24 (38) Animal Health Technician Examining Committee Fund.
- 25 ~~(40)~~
- 26 (39) Structural Pest Control Education and Enforcement Fund.
- 27 ~~(41)~~
- 28 (40) Structural Pest Control Research Fund.
- 29 (b) For accounting and recordkeeping purposes, the
- 30 Professions and Vocations Fund shall be deemed to be a single
- 31 special fund, and each of the several special funds therein shall
- 32 constitute and be deemed to be a separate account in the
- 33 Professions and Vocations Fund. Each account or fund shall be
- 34 available for expenditure only for the purposes as are now or may
- 35 hereafter be provided by law.
- 36 SEC. 4. Chapter 8.5 (commencing with Section 3901) of
- 37 Division 2 of the Business and Professions Code is repealed.
- 38 SEC. 5. Chapter 2.35 (commencing with Section 1416) is
- 39 added to Division 2 of the Health and Safety Code, to read:
- 40



1 CHAPTER 2.35. NURSING HOME ADMINISTRATOR PROGRAM

2
3 Article 1. General Provisions

4
5 1416. There is hereby established in the State Department of
6 Health Services a Nursing Home Administrator Program
7 (NHAP), which shall license and regulate nursing home
8 administrators.

9 1416.2. (a) The following definitions shall apply to this
10 chapter:

11 (1) “Department” means the State Department of Health
12 Services.

13 (2) “NHAP” or “program” means the Nursing Home
14 Administrator Program.

15 (3) “State” means California, unless applied to the different
16 parts of the United States. In this latter case, “state” includes the
17 District of Columbia and the territories.

18 (4) “Nursing home” means any institution, facility, place,
19 building, or agency, or portion thereof, licensed as a skilled
20 nursing facility, intermediate care facility, or intermediate care
21 facility/developmentally disabled, as defined in Chapter 2
22 (commencing with Section 1250). “Nursing home” also means an
23 intermediate care facility/developmentally disabled habilitative,
24 intermediate care facility/developmentally disabled-nursing, or
25 congregate living health facility, as defined in Chapter 2
26 (commencing with Section 1250), if a licensed nursing home
27 administrator is charged with the general administration of the
28 facility.

29 (5) “Nursing home administrator” means an individual
30 educated and trained within the field of nursing home
31 administration who carries out the policies of the licensee of a
32 nursing home and is licensed in accordance with this chapter. The
33 nursing home administrator is charged with the general
34 administration of a nursing home, regardless of whether he or she
35 has an ownership interest and whether the administrator’s function
36 or duties are shared with one or more other individuals.

37 (6) “Administrator-in-Training Program” or “AIT Program”
38 means a program that is approved by the NHAP in which qualified
39 persons participate under the coordination, supervision, and

1 teaching of a preceptor, as described in Section 1416.57, who has
2 obtained approval from the NHAP.

3 (b) Nothing in this section shall be construed to allow the
4 program to have jurisdiction over an administrator of an
5 intermediate care facility/developmentally disabled-nursing or an
6 intermediate care facility/ developmentally disabled habilitative,
7 if the administrator of the facility is not using licensure under this
8 chapter to qualify as an administrator in accordance with
9 subdivision (d) of Section 1276.5.

10 (c) Nothing in this section shall be construed to define an
11 intermediate care facility/developmentally disabled-nursing or an
12 intermediate care facility/developmentally disabled habilitative as
13 a nursing home for purposes other than the licensure of nursing
14 home administrators under this chapter.

15 1416.4. The program shall adopt rules and regulations that are
16 reasonably necessary to carry out this chapter. The rules and
17 regulations shall be adopted, amended, and repealed in accordance
18 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
19 Division 3 of Title 2 of the Government Code. To the extent that
20 the regulations governing the nursing home administrator
21 program that are in effect prior to January 1, 2002, are not in
22 conflict with this chapter, they shall remain in effect until new
23 regulations are implemented for purposes of this chapter.

24 1416.6. (a) It shall be a misdemeanor for any person to act or
25 serve in the capacity of a nursing home administrator, unless he or
26 she is the holder of an active nursing home administrator's license
27 issued in accordance with this chapter. Persons carrying out
28 functions and duties delegated by a licensed nursing home
29 administrator shall not be acting in violation of this chapter.

30 (b) (1) This chapter shall not apply to any person who serves
31 as an acting administrator as provided in this subdivision when a
32 licensed administrator is not available because of death, illness, or
33 any other reason.

34 (2) A person who is acting as an administrator shall notify the
35 program in writing within five days of acting in this capacity and
36 provide factual information and specific circumstances
37 necessitating the use of an acting administrator.

38 (3) No person shall act as an administrator for more than 10
39 days unless arrangements have been made for direct onsite
40 supervision of his or her activities at least 20 hours per week by a

1 nursing home administrator who holds a license or provisional
2 license under this chapter. The program shall be notified in writing
3 of the nature of this arrangement. No person shall act as an
4 administrator for more than two months without the written
5 approval of the program. The program shall not approve a person
6 to act as an administrator for more than six months.

7
8 Article 2. Administration
9

10 1416.10. In conformity with the requirements of Section
11 1908(c) of the Social Security Act (42 U.S.C. Sec. 1396g(c)), the
12 program shall have all of the following duties:

13 (a) To develop, impose, and enforce standards that shall be met
14 by individuals in order to receive a license as a nursing home
15 administrator. The standards shall be designed to ensure that
16 nursing home administrators shall be individuals who have not
17 committed acts or crimes constituting grounds for denial of
18 licensure and who are qualified by training or experience in the
19 field of institutional administration to serve as nursing home
20 administrators.

21 (b) To develop and apply appropriate techniques, including
22 examinations and investigations, for determining whether an
23 individual meets the standards.

24 (c) To issue licenses to individuals determined, after the
25 application of the techniques, to meet the standards, and to revoke
26 or suspend licenses where grounds exist for those actions.

27 (d) To establish and carry out procedures designed to ensure
28 that individuals licensed as nursing home administrators will,
29 during any period that they serve as an administrator, comply with
30 the required standards.

31 (e) To receive, investigate, and take appropriate action with
32 respect to any charge or complaint filed with the program alleging
33 that an individual licensed as a nursing home administrator has
34 failed to comply with the required standards.

35 (f) To conduct studies of the administration of nursing homes
36 within the state, with a view to the improvement of the standards
37 imposed for the licensing of nursing home administrators, and of
38 procedures and methods for the enforcement of standards with
39 respect to administrators of nursing homes who have been licensed
40 under this chapter.

(g) To receive and administer all funds and grants as are made available to the program in order to carry out the purposes of this chapter.

(h) To encourage qualified educational institutions and other qualified organizations to establish, provide, and conduct training and instruction programs and courses that will enable all otherwise qualified individuals to attain the qualifications necessary to meet the standards set by the program for licensed nursing home administrators, and to enable licensed nursing home administrators to meet the continuing education requirements for the renewal of their licenses.

(i) To consult with and seek the recommendations of the appropriate statewide professional societies, associations, institutional organizations, and educational institutions in the development of educational programs.

(j) To give due consideration to the recommendations of the National Advisory Council on Nursing Home Administration, in accordance with to the provisions of subdivision (f) of Section 1908 of Title XIX of the Social Security Act (42 U.S.C. Sec. 1396g(f)).

1416.12. The following enforcement actions taken by the department against a facility and the name of the licensed administrator of the facility shall be reported to the program.

(a) Temporary suspension orders.

(b) Final decertification from the Medi-Cal or Medicare programs based on failure to meet certification requirements.

(c) Service of an accusation to revoke a facility's license.

(d) All class "AA" citations and class "A" citations issued to a facility. The department district offices shall notify the program in the event that citations are overturned or modified in citation review conference, through binding arbitration, or on appeal.

Article 3. Licensing

1416.20. (a) Unless otherwise provided in this article, every applicant for an initial license as a nursing home administrator shall pass a nursing home administrator licensing examination, which shall consist of a state and national examination. The state examination shall be held at least four times a year, at a time and place determined by the program. The national examination is

computer-based and shall be scheduled by the applicant after the applicant is notified by the program of his or her eligibility to take the examination.

(b) The nursing home administrator licensing examination shall cover the broad aspects of nursing home administration.

(c) If an applicant for licensure under this article, submits an endorsement certificate from another state indicating that he or she scored at least 75 percent on the national examination, the applicant shall be required to take only the California state examination. If the applicant scored less than 75 percent on the national examination, he or she shall take both the state and national examination.

1416.22. (a) To qualify for the licensing examination, an applicant must be at least 18 years of age, be a citizen of the United States, be of reputable and responsible character, demonstrate an ability to comply with this chapter, and comply with at least one of the following requirements:

(1) Have a master's degree in nursing home administration or a related health administration field. The master's program in which the degree was obtained must have included an internship or residency of at least 40 hours in a skilled nursing facility or intermediate care facility.

(2) (A) With regard to applicants who have a current valid license as a nursing home administrator in another state and apply for licensure in this state, meet the minimum education requirements that existed in this state at the time the applicant was originally licensed in the other state.

(B) The minimum education requirements that have existed in California are as follows:

Prior to 7/1/73	None
From 7/1/73 to 6/30/74	30 semester units
From 7/1/74 to 6/30/75	45 semester units
From 7/1/75 to 6/30/80	60 semester units
After 7/1/80	Baccalaureate degree

(3) A doctorate degree in medicine and a current valid license as a physician and surgeon with 10 years of recent work experience, and the completion of a program-approved AIT Program of at least 1,000 hours.

1 (4) A baccalaureate degree, and the completion of a
2 program-approved AIT Program of at least 1,000 hours.

3 (5) Ten years of recent full-time work experience as a licensed
4 registered nurse, and the completion of a program-approved AIT
5 program of at least 1,000 hours. At least the most recent five years
6 of the 10 years of work experience shall be in a supervisory or
7 director of nursing position.

8 (6) Ten years of full-time work experience in any department
9 of a skilled nursing facility, an intermediate care facility, or an
10 intermediate care facility developmentally/disabled with at least
11 60 semester units (or 90 quarter units) of college or university
12 courses, and the completion of a program-approved AIT Program
13 of at least 1,000 hours. At least the most recent five years of the 10
14 years of work experience shall be in a position as a department
15 manager.

16 (7) Ten years of full-time hospital administration experience in
17 an acute care hospital with at least 60 semester units (or 90 quarter
18 units) of college or university courses, and the completion of a
19 program-approved AIT Program of at least 1,000 hours. At least
20 the most recent five years of the 10 years of work experience shall
21 be in a supervisory position.

22 (b) The applicant shall submit an official transcript that
23 evidences the completion of required college and university
24 courses, degrees, or both. An applicant who qualifies for the
25 licensing examination on the basis of work experience shall submit
26 a declaration signed under penalty of perjury, verifying his or her
27 work experience. This declaration shall be signed by a licensed
28 nursing home administrator, physician and surgeon, chief of staff,
29 director of nurses, or registered nurse who can attest to the
30 applicant's work experience.

31 1416.24. (a) An application for a nursing home administrator
32 license shall be submitted to the program on a form provided by
33 the program, with the appropriate nonrefundable fee for any
34 required examination, the application, and licensure. The
35 application shall contain information the program deems
36 necessary to determine the applicant's qualifications and a
37 statement whether the individual has been convicted of any crime.
38 Each applicant shall meet the current requirements for any
39 required examination and licensure. Applicants for licensure shall

1 submit evidence of electronic transmission of fingerprints or
2 fingerprint cards to the program.

3 (b) A completed application package, together with the
4 examination application, and licensure fees must be received by
5 the program at least 30 days prior to the examination date.

6 (c) (1) The withdrawal of an application for a license after it
7 has been filed with the department shall not, unless the department
8 consents in writing to the withdrawal, deprive the department of
9 its authority to institute or continue a proceeding against the
10 applicant for the denial of the license upon any ground provided
11 by law or to enter an order denying the license upon that ground.

12 (2) The suspension, expiration, or forfeiture by operation of
13 law of a license issued by the department, the suspension,
14 forfeiture, or cancellation by order of the department or a court of
15 law of a license, or the surrender without the written consent of the
16 department of a license, shall not deprive the department of its
17 authority to institute or continue a disciplinary proceeding against
18 the licensee upon any ground provided by law or to enter an order
19 suspending or revoking the license or otherwise taking
20 disciplinary action against the licensee on any grounds.

21 (d) An application that is submitted to the program is valid for
22 only one year after the date of receipt. An applicant who fails to
23 meet all requirements for licensure, including successfully passing
24 the national and state examinations during that one-year period,
25 shall be required to submit another application and appropriate
26 application and examination fees to the program before attempting
27 further examinations.

28 (e) An applicant shall submit documentation and evidence to
29 the program of his or her eligibility for licensure.

30 1416.26. (a) As part of the application process for a nursing
31 home administrator license, an applicant shall submit to the
32 department two sets of completed fingerprint cards for a criminal
33 record clearance through the Department of Justice and the Federal
34 Bureau of Investigation. As an alternative, the applicant may also
35 provide proof of electronic transmission of fingerprints to the
36 Department of Justice and the Federal Bureau of Investigation.
37 Upon receipt of the fingerprints, the Department of Justice and the
38 Federal Bureau of Investigation shall notify the department of the
39 criminal record information. If no criminal record information has
40 been recorded, the Department of Justice and the Federal Bureau

1 of Investigation shall provide the department with a statement of
2 that fact.

3 (b) This criminal record clearance shall be completed prior to
4 issuing a license. Applicants shall be responsible for any costs
5 associated with the criminal record clearance. The fee to cover the
6 processing costs of the Department of Justice, not including the
7 costs associated with rolling the fingerprint cards, shall not exceed
8 thirty-two dollars (\$32) per card for state fingerprints, and shall
9 not exceed twenty-four dollars (\$24) per card for federal
10 fingerprints.

11 1416.28. (a) Notwithstanding any other law, the program
12 shall at the time of application, issuance, or renewal of a nursing
13 home administrator license require that the applicant or licensee
14 provide his or her federal employer identification number or his or
15 her social security number.

16 (b) Any applicant or licensee failing to provide his or her
17 federal identification number or social security number shall be
18 reported by the program to the Franchise Tax Board and, if failing
19 to provide after notification pursuant to paragraph (1) of
20 subdivision (b) of Section 19528 of the Revenue and Taxation
21 Code, shall be subject to the penalty provided in paragraph (2) of
22 subdivision (b) of Section 19528 of the Revenue and Taxation
23 Code.

24 (c) In addition to the penalty specified in subdivision (b), the
25 program may not process any application, original license, or
26 renewal of a license unless the applicant or licensee provides his
27 or her federal employer identification number or social security
28 number where requested on the application.

29 (d) The program shall, upon request of the Franchise Tax
30 Board, furnish to the Franchise Tax Board the following
31 information with respect to every licensee:

32 (1) Name.

33 (2) Address or addresses of record.

34 (3) Federal employer identification number or social security
35 number.

36 (4) Type of license.

37 (5) Effective date of license or renewal.

38 (6) Expiration date of license.

39 (7) Whether license is active or inactive, if known.

40 (8) Whether license is new or a renewal.

1 (e) The reports required under this section shall be filed on
2 magnetic media or in other machine-readable form, according to
3 standards furnished by the Franchise Tax Board.

4 (f) The program shall provide to the Franchise Tax Board the
5 information required by this section at a time that the Franchise
6 Tax board may require.

7 (g) Notwithstanding Chapter 3.5 (commencing with Section
8 6250) of Division 7 of Title 1 of the Government Code, the social
9 security number and federal employer identification number
10 furnished pursuant to this section shall not be deemed to be a public
11 record and shall not be open to the public for inspection.

12 (h) Any deputy, agent, clerk, officer, or employee of the
13 program described in this chapter, any former officer or employee,
14 or other individual who in the course of his or her employment or
15 duty has or has had access to the information required to be
16 furnished under this chapter, may not disclose or make known in
17 any manner that information, except as provided in this section to
18 the Franchise Tax Board or as provided in subdivision (j).

19 (i) It is the intent of the Legislature in enacting this section to
20 utilize the social security account number or federal employer
21 identification number for the purpose of establishing the
22 identification of persons affected by state tax laws and for purposes
23 of compliance with Section 17520 of the Family Code and, to that
24 end, the information furnished pursuant to this section shall be
25 used exclusively for those purposes.

26 (j) If the program utilizes a national examination to issue a
27 license, and if a reciprocity agreement or comity exists between
28 California and the state requesting release of the social security
29 number, any deputy, agent, clerk, officer, or employee of the
30 program described in this chapter may release a social security
31 number to an examination or licensing entity, only for the purpose
32 of verification of licensure or examination status.

33 1416.30. Each applicant for the issuance or renewal of a
34 nursing home administrator license, who is not in compliance with
35 a judgment or order for support shall be subject to Section 11350.6
36 of the Welfare and Institutions Code.

37 1416.32. (a) Prior to admission to the licensing examination,
38 the applicant shall read and sign an examination security
39 agreement and comply with its terms.

(b) The program may deny, suspend, revoke, or otherwise restrict the license of an applicant or a licensee for any of the following acts:

(1) Having or attempting to have an impersonator take the examination on one's behalf.

(2) Impersonating or attempting to impersonate another to take the examination on that person's behalf.

(3) Communicating or attempting to communicate about the examination content with another examinee or with any person other than the examination staff. This includes divulging the intent or content of specific written examination items to examination preparation providers.

(4) Copying questions or making notes of examination materials or revealing the content of the examination to others who are preparing to take the NHAP examination or who are preparing others to take such examination.

(5) Obstructing or attempting to obstruct the administration of the examination in any way.

(c) It is a misdemeanor for any person to engage in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to, the following conduct:

(1) Conduct that violates the security of the examination materials, removing from the examination room any examination materials without authorization, the unauthorized reproduction by any means of any portion of the actual licensing examination, aiding by any means the unauthorized reproduction of any portion of the actual licensing examination, paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination, obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination, using or purporting to use any examination questions or materials that were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination, or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(2) Communicating with any other candidate during the administration of a licensing examination, copying answers from

1 another examinee or permitting one's answers to be copied by
2 another examinee, having in one's possession during the
3 administration of the licensing examination any books,
4 equipment, notes, written or printed materials, or data of any kind,
5 other than the examination materials distributed, or otherwise
6 authorized to be in one's possession during the examination, or
7 impersonating any examinee or having an impersonator take the
8 licensing examination on one's behalf.

9 (d) Nothing in this section shall preclude prosecution under the
10 authority provided for in any other provision of law.

11 (e) In addition to any other penalties, a person found guilty of
12 violating this section, shall be liable for the actual damages
13 sustained by the agency administering the examination not to
14 exceed ten thousand dollars (\$10,000) and the costs of litigation.

15 (f) The proceedings under this section shall be governed by
16 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
17 the Code of Civil Procedure.

18 (g) The remedy provided for by this section shall be in addition
19 to, and not a limitation on, the authority provided for in any other
20 provision of law.

21 1416.34. (a) (1) In order to have a passing score on either the
22 national or state examination, an examinee shall earn a score of at
23 least 75 percent.

24 (2) An applicant who fails to pass either the national or state
25 examination shall retake the entire national or state examination.

26 (3) An applicant who fails to pass either the state or national
27 examination after three attempts shall receive additional training
28 as outlined by the program from a program-approved preceptor,
29 prior to participating in another examination.

30 (b) The examination shall be administered and evaluated by
31 either of the following:

32 (1) The department.

33 (2) A contractor or vendor pursuant to a written agreement with
34 the program or department.

35 (c) The results of the examination shall be provided to each
36 applicant in a timely manner, not to exceed 90 days from the date
37 of the examination.

38 (d) The program shall issue a license to an applicant who
39 successfully passes the required examination and has satisfied all
40 other requirements for licensure.

1 (e) A license shall be effective for a period of two years from
2 the date of issuance.

3 (f) The program shall issue a provisional license to candidates
4 who meet the provisional licensure requirements established by
5 this chapter.

6 (g) The program shall replace a lost, damaged, or destroyed
7 license upon receipt of a written request from a licensee and
8 payment of the duplicate license fee. A licensee shall complete a
9 request for a duplicate license on the required program form, and
10 then submit it to the program.

11 (h) A licensee shall inform the program of the licensee's
12 current home address, mailing address, and if employed by a
13 nursing facility, the name and address of that employer. A licensee
14 shall report a change in any of this information to the program
15 within 30 calendar days. Failure of the licensee to provide timely
16 notice to the program shall result in a citation penalty. A licensee
17 shall provide to the program an address to be included in the public
18 files.

19 (i) A licensee shall display his or her license in a locality that
20 is in public view in order to inform patients or the public as to the
21 identity of the regulatory agency that they may contact if they have
22 questions or complaints regarding the licensee.

23 1416.36. (a) The fees prescribed by this chapter are as
24 follows:

25 (1) The application fee for reviewing an applicant's eligibility
26 to take the examination shall be twenty-five dollars (\$25).

27 (2) The application fee for persons applying for reciprocity
28 consideration licensure under Section 1416.40 shall be fifty
29 dollars (\$50).

30 (3) The application fee for persons applying for the AIT
31 Program shall be one hundred dollars (\$100).

32 (4) The examination fees shall be:

33 (A) Two hundred seventy-five dollars (\$275) for an automated
34 national examination.

35 (B) Two hundred ten dollars (\$210) for an automated state
36 examination or one hundred forty dollars (\$140) for a written state
37 examination.

38 (5) The fee for an initial license shall be one hundred ninety
39 dollars (\$190).

1 (6) The renewal fee for an active or inactive license shall be one
2 hundred ninety dollars (\$190).

3 (7) The delinquency fee shall be fifty dollars (\$50).

4 (8) The duplicate license fee shall be twenty-five dollars (\$25).

5 (9) The fee for a provisional license shall be two hundred fifty
6 dollars (\$250).

7 (10) The fee for endorsement of credentials to the licensing
8 authority of another state shall be twenty-five dollars (\$25).

9 (11) The preceptor certification fee shall be fifty dollars (\$50)
10 for each two-year period.

11 (12) The biennial fee for approval of a continuing education
12 provider shall be one hundred fifty dollars (\$150).

13 (13) The biennial fee for approval of a continuing education
14 course shall be not more than fifteen dollars (\$15).

15 (b) Commencing July 1, 2002, fees provided in this section
16 shall be adjusted annually, as directed by the Legislature in the
17 annual Budget Act. The department shall provide an annual fiscal
18 year program fee report to the Legislature each April 1,
19 commencing on April 1, 2002.

20 (c) The department shall, by July 30 of each year, publish a list
21 of actual numerical fee charges as adjusted pursuant to this section.
22 This adjustment of fees and the publication of the fee list shall not
23 be subject to the requirements of Chapter 3.5 (commencing with
24 Section 11340) of Part 1 of Division 3 of title 2 of the Government
25 Code.

26 1416.38. (a) The Nursing Home Administrator's State
27 License Examining Board Fund in the Professions and Vocations
28 Fund in the State Treasury is hereby renamed the Nursing Home
29 Administrator's State License Examining Fund and continued in
30 existence in the State Treasury.

31 (b) Within 10 days after the beginning of every month, all fees
32 collected by the program for the month preceding, under this
33 chapter, shall be paid into the Nursing Home Administrator's State
34 License Examining Fund.

35 (c) The funding paid into the Nursing Home Administrator's
36 State License Examining Fund shall be continuously appropriated
37 to the program for expenditures in the manner prescribed by law
38 to defray the expenses of the program and in carrying out and
39 enforcing the provisions of this chapter.

1 1416.40. (a) An applicant who holds a current valid license
2 as a nursing home administrator in another state may be issued a
3 one-year provisional license as a reciprocity applicant pursuant to
4 this section. The provisional license authorizes the holder to work
5 in this state at a licensed nursing facility during the one-year
6 licensure period.

7 (b) The applicant shall obtain an application form from the
8 program, complete the form accurately, and, under penalty of
9 perjury, certify the experience, education, and criminal record
10 history information supplied in the application. The applicant shall
11 submit the application to the program, along with any supporting
12 documents to substantiate the application and the applicable
13 provisional, examination, and licensure fees.

14 (c) The provisional license may be granted to a reciprocity
15 applicant who complies with all of the following informational
16 requirements:

17 (1) Provides a statement of health consistent with an ability to
18 perform the duties of a nursing home administrator.

19 (2) Discloses the fact of and the circumstances surrounding any
20 of the following:

21 (A) Conviction of any criminal law violation of any country,
22 state, or municipality, except minor traffic violations. The
23 applicant shall submit appropriate criminal record information for
24 purposes of this subparagraph.

25 (B) Any discipline affecting nursing home administrator
26 licensure in any state.

27 (C) Failure of any nursing home administrator licensure
28 examinations.

29 (D) Any pending investigations or disciplinary actions
30 concerning, or surrender of, nursing home administrator licensure
31 in any state. The applicant shall submit an endorsement certificate
32 to substantiate if he or she has no pending investigation,
33 disciplinary action, or surrender under this subparagraph.

34 (3) Submits official transcripts as evidence of completed
35 college or university courses and degrees.

36 (4) Provides satisfactory evidence of current or recent
37 employment experience within the last five years as a licensed
38 nursing home administrator.

39 (5) Submits proof that the applicant is at least 18 years of age.

1 (6) Submits proof of United States citizenship or evidence of
2 legal residence status. This evidence may include a certified copy
3 of a birth certificate, naturalization papers, or current visa status.

4 (d) The reciprocity applicant who holds a provisional license as
5 authorized by this section shall be required to pass the state
6 examination. If the provisional licensee, fails to pass the state
7 examination within the one-year provisional licensure period, the
8 provisional license shall expire and no further reciprocity
9 accommodations shall be allowed. The provisional license may
10 not be renewed or extended. At the expiration of the provisional
11 license the applicant may seek licensure in this state through
12 standard procedures.

13 1416.42. (a) Except for provisional licenses issued pursuant
14 to Section 1416.40, each license issued pursuant to this chapter
15 shall expire 24 months from the date of issuance.

16 (b) To renew an unexpired license the licensee shall, at least 30
17 days prior to the expiration of the license, submit an application for
18 renewal on a form provided by the program, accompanied by the
19 renewal fee. An applicant may request either an active license or
20 an inactive license. If an applicant requests an active license, he or
21 she shall submit proof of completion of the required hours of
22 program-approved continuing education.

23 (c) A delinquency fee is payable for license renewals not
24 received by the program one day after the license expires.

25 (d) A license which has expired may be reinstated within three
26 years following the date of expiration. The licensee shall apply for
27 reinstatement on a form provided by the program and submit the
28 completed form together with the current fee for license renewal.
29 If the licensee requests an active license, he or she shall furnish
30 proof of completion of the required hours of continuing education.
31 The reinstatement shall be effective on the date that the completed
32 application, including required fees, is submitted and approved.

33 1416.44. (a) Notwithstanding any other provision of law, a
34 licensee who permitted his or her license to expire while serving
35 in any branch of the armed services of the United States during a
36 period of war may, upon application, reinstate his or her license
37 without examination or penalty if the following conditions are
38 met:

39 (1) His or her license was valid at the time he or she entered the
40 armed services.

(2) The application for reinstatement is made while serving in the armed services, not later than one year from the date of discharge from active service or return to inactive military status, or within three years following the license date of expiration whichever is the most recent time period.

(3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.

(4) The application for reinstatement indicates no criminal convictions while absent from the profession.

(b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing program, may be required to pass an examination and pay additional fees.

(c) Unless otherwise specifically provided by law, any licensee who, either part time or full time, practices in this state the nursing home administrator profession shall be required to maintain his or her license in good standing even though he or she is in military service.

(d) For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which he or she is prevented from practicing his or her profession or vocation shall be excluded in determining the periods specified in paragraph (2) of subdivision (a).

(e) As used in this section, "war" means any of the following circumstances:

(1) Whenever Congress has declared war and peace has not formally been restored.

(2) Whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared.

(3) Whenever the United States is assisting the United Nations, in actions involving the use of armed force, to restore international peace and security.

1416.46. (a) A revoked license may not be renewed.

(b) A licensee whose license has been revoked may petition the program for reinstatement after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The petitioner shall be afforded

1 an opportunity to present either oral or written argument before the
2 program. The program shall decide the petition and the decision
3 shall include the reasons therefor, and any terms and conditions
4 that the program reasonably deems appropriate to impose as a
5 condition of reinstatement.

6 1416.48. (a) A licensee may not engage in licensed activity
7 while his or her license is suspended or revoked, or after it has
8 expired.

9 (b) A licensee who does not intend to engage in activity
10 requiring nursing home administrator licensure may file a request
11 to place his or her license in inactive status. An inactive license is
12 subject to all requirements for renewal, including payment of fees,
13 but completion of continuing education is not required to renew an
14 inactive license. However, proof of completion of 40 continuing
15 education credits during the last two years shall be submitted
16 together with an application for reinstatement of an active license.

17 1416.50. (a) This section shall govern the continuing
18 education requirements needed by a nursing home administrator
19 to renew his or her nursing home administrator license.

20 (b) In order to renew a license, the applicant shall provide
21 evidence satisfactory to the program that he or she has completed
22 40 hours of program-approved continuing education courses, of
23 which at least 10 total hours shall be specifically in the area of
24 aging or patient care.

25 (c) The continuing education courses to be approved for credit
26 toward the continuing education requirements may include the
27 following subject areas offered by accredited colleges,
28 universities, or community colleges.

29 (1) Resident care.

30 (2) Personnel management.

31 (3) Financial management.

32 (4) Environmental management.

33 (5) Regulatory management.

34 (6) Organizational management.

35 (7) Patient care and aging.

36 (d) No continuing education credit shall be allowed for courses
37 failed according to the institution's grading determination.

38 (e) If the program finds that programs of training and
39 instruction conducted within the state are not sufficient in number
40 or content to enable nursing home administrators to meet

1 requirements established by law and this chapter, the program may
2 approve courses conducted within and without this state as
3 sufficient to meet educational requirements established by law and
4 this chapter. For the purposes of this subdivision, the program shall
5 have the authority to receive funds in a manner consistent with the
6 requirements of the federal government.

7
8 Article 4. Training
9

10 1416.55. (a) An administrator-in-training program (AIT
11 Program) shall be developed by the NHAP, in consultation with
12 representatives from the long-term care industry and advocacy
13 groups. The AIT Program shall include, but not be limited to, all
14 of the following areas of instruction:

- 15 (1) Orientation.
- 16 (2) Administration and business office.
- 17 (3) State and federal regulations governing long-term care
18 facilities.
- 19 (4) Residents' rights and abuse prevention.
- 20 (5) Staffing requirements and work force retention.
- 21 (6) Nursing services.
- 22 (7) Resident activities.
- 23 (8) Resident care.
- 24 (9) Social services.
- 25 (10) Dietary management.
- 26 (11) Environmental care, including housekeeping, laundry,
27 and maintenance.
- 28 (12) Financial management.
- 29 (13) General management.
- 30 (14) Government regulations.
- 31 (15) Legal management.
- 32 (16) Personnel management and training.
- 33 (17) Consultants and contracts.
- 34 (18) Medical records.
- 35 (19) Public relations and marketing.

36 (b) A person who seeks to satisfy requirements for admission
37 to licensure examinations through participation in an AIT
38 Program shall first receive approval to begin the AIT Program. An
39 applicant shall successfully complete the AIT Program in a
40 program-approved facility under the coordination, supervision,

1 and teaching of a preceptor who has obtained certification from the
2 program and continues to meet the qualifications set forth in the
3 rules and regulations of the program.

4 (c) In order to be eligible for the AIT Program, an applicant
5 shall submit an application package on forms provided by the
6 NHAP, and pay the applicable fees established by this chapter. The
7 applicant shall be at least 18 years of age and provide proof of
8 United States citizenship or evidence of legal resident status. This
9 evidence may include a certified copy of a birth certificate,
10 naturalization papers, or current visa status.

11 (d) In addition to the requirements in subdivision (c), the
12 applicant shall meet one or a combination of the following
13 requirements to be eligible for the AIT Program:

14 (1) A doctorate degree in medicine and a current valid license
15 as a physician and surgeon with at least 10 years of recent work
16 experience.

17 (2) A baccalaureate degree.

18 (3) Ten years of full-time work experience and a current valid
19 license as a registered nurse. At least the most recent five years of
20 the 10 years of work experience shall be in a supervisory or
21 director of nursing position.

22 (4) Ten years of full-time work experience in any department
23 of a skilled nursing facility, an intermediate care facility, or an
24 intermediate care facility/developmentally disabled with at least
25 60 semester units (or 90 quarter units) of college or university
26 courses. At least the most recent five years of the 10 years of work
27 experience shall be in a position as a department manager.

28 (5) Ten years of full-time hospital administration experience in
29 an acute care hospital with at least 60 semester units (or 90 quarter
30 units) of college or university courses. At least the most recent five
31 years of the 10 years of work experience shall be in a supervisory
32 position.

33 (e) The applicant shall submit an official transcript that
34 evidences the completion of required college or university
35 courses, degrees, or both. An applicant who qualifies for the AIT
36 Program on the basis of work experience shall submit a declaration
37 signed under penalty of perjury verifying his or her work
38 experience. This declaration shall be signed by a licensed nursing
39 home administrator, physician and surgeon, chief of staff, director

1 of nurses, or registered nurse who can attest to the applicant's work
2 experience.

3 1416.57. (a) An individual may, upon compliance with the
4 requirements of this section, be approved by the program to be a
5 preceptor who is authorized to provide a training program in which
6 the preceptor coordinates, supervises, and teaches persons seeking
7 to meet specified requirements to qualify for the licensing
8 examination under this chapter. The approval obtained under this
9 section shall be effective for a period of two years, after which the
10 preceptor is required to renew his or her preceptor status and attend
11 a preceptor training course provided by the program.

12 (b) In order to qualify to be a preceptor, a person shall meet all
13 of the following conditions:

14 (1) Be a current active California licensed nursing home
15 administrator.

16 (2) Have no disciplinary record or pending actions.

17 (3) Have served for at least two years as the designated
18 administrator of a California licensed nursing home or for at least
19 four years as the designated assistant administrator of a California
20 licensed nursing home.

21 (4) Have gained experience in all administrative functions of a
22 nursing home.

23 (c) The applicant seeking approval to be a preceptor shall
24 submit an application form provided by the program that requires
25 the applicant's name, address, birth date, the states and dates of
26 issuance of all professional licenses, including those as a nursing
27 home administrator, and any other information required by the
28 program.

29 (d) At the time of application, for purposes of substantiating
30 that the conditions specified in subdivision (b) have been met, the
31 applicant shall provide satisfactory evidence of his or her
32 education, experience, and knowledge that qualifies him or her to
33 supervise the training of an AIT Program participant and
34 verification that the facilities at which the applicant has had direct
35 management control as an administrator had a continuous
36 operating history, free from major deficiencies, during the period
37 of the applicant's administration.

38 (e) An applicant shall not be approved as a preceptor until the
39 applicant attends a preceptor's training seminar provided by the
40 program.



(f) (1) For purposes of this section, “AIT” means administrator-in-training.

(2) The following requirements shall apply to a preceptor approved pursuant to this section:

(A) The preceptor may not supervise or train a member of his or her family.

(B) The preceptor must provide a directly supervised training program that will include a minimum of 20 hours per week and a maximum of 60 hours per week and be available at least by telephone at all other times. There shall be regular personal contact between the preceptor and the AIT during the training program.

(C) The preceptor shall be the designated administrator of the facility where the training is conducted.

(D) The preceptor may not supervise more than two AIT trainees during the same time period.

(E) The preceptor shall inform the NHAP of any training program changes dealing with his or her specific AIT.

(F) The preceptor shall rate the AIT’s training performance and complete an AIT Evaluation Report at the end of the AIT’s training.

(G) The preceptor shall be evaluated by the program based on the examination success and failure history of his or her AIT trainees and the program may revoke or suspend preceptor certificates as appropriate.

Article 5. Enforcement

1416.60. Each licensee shall, within 30 days, after each appointment as the designated administrator of a nursing home and after any termination of that appointment, notify the program. Each notification shall include the name of the administrator, the nursing home administrator number assigned, the name and address of the facility or facilities involved, and the date of the appointment or termination. All information provided pursuant to this section shall be public information.

1416.62. The program shall maintain a current list of nursing home administrators who have been placed on probation or had their licenses suspended or revoked within the last three years. The program shall provide the current list of these administrators to licensed nursing homes and the department district offices every

1 six months. The current list shall also be available to the general
2 public upon request.

3 1416.64. (a) The program shall maintain a record of
4 enforcement actions reported to the program, pursuant to Section
5 1416.12. The program shall routinely review the citation logs and
6 files of nursing home administrators whose facilities have
7 received citations from the department to determine if remedial or
8 disciplinary action against the administrator is warranted. The
9 program shall initiate disciplinary action against an administrator
10 if a pattern of poor performance is established and validated by
11 evidence available to the program.

12 (b) Following receipt of reports on temporary suspension
13 orders, service of an accusation for facility license revocations, or
14 final decertification of a facility from participation in the Medi-Cal
15 or Medicare programs, due to failure to meet certification
16 standards, the program shall make a determination as to whether
17 the evidence available warrants remedial or disciplinary action
18 against the administrator or constitutes grounds for denial,
19 suspension, or revocation pursuant to Section 1416.76.

20 (c) If the program determines that action against the
21 administrator is not warranted, the program shall document in the
22 file the reasons and specific circumstances for not taking remedial
23 or disciplinary action against the administrator's license.

24 (d) The program shall consider all of the following prior to
25 making a determination to initiate disciplinary action:

26 (1) Any information provided to the program by the
27 administrator pursuant to this section.

28 (2) Whether the administrator was in fact the designated
29 administrator of the facility when the violation occurred, or the
30 designated administrator of the facility during the period of time
31 the citation covered.

32 (3) Whether the administrator should have or could have
33 prevented the violation or violations that occurred.

34 (e) Prior to making a final determination to initiate action
35 against an administrator, the program shall notify the
36 administrator that the program is considering action and provide
37 the administrator with an opportunity to show just cause why
38 remedial or disciplinary action should not be initiated.



(f) If the program determines that grounds for remedial or disciplinary action exist, the program may initiate either or both of the following actions, as warranted:

(1) Remedial action, including, but not limited to, a conference with the administrator, a letter of warning, or both.

(2) Disciplinary action, including, but not limited to, citations, fines, formal letters of reprimand, probation, denial, suspension, revocation of the administrator's license, or any combination of these actions.

1416.66. (a) The program shall develop and make available a form that may be utilized at the nursing home administrator's option to provide the program with relevant information, documentation, and background on any actions reported to the program pursuant Section 1416.12.

(b) Any reports received pursuant to Section 1429.12 shall remain in the administrator's file for five years, unless the program is notified that the action has been modified or overturned. Any modification of an action shall be noted and documented in the administrator's file.

1416.68. (a) It is the responsibility of the nursing home administrator as the managing officer of the facility to plan, organize, direct, and control the day-to-day functions of a facility and to provide the highest level of care and safety possible to the residents entrusted to the facility for care.

(b) The administrator shall be vested with adequate authority to comply with the laws, rules, and regulations relating to the management of the facility.

(c) No licensee shall be cited for any violation caused by any person licensed pursuant to the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code) if the person is independent of, and not connected with, the facility and the licensee shows that he or she has exercised reasonable care and diligence in notifying these persons of their duties to the patients in the nursing facility.

(d) The delegation of any authority by a licensee shall not diminish the responsibilities of that licensee.

1416.70. (a) The program shall establish a system for the issuance of citations to licensees, examinees, or participants of any program activity offered or approved by the program. The citations may contain an order of abatement, an order to pay an

1 administrative fine assessed by the program chief, or both, where
2 the licensee, examinee, or participant is in violation of any state or
3 federal statute or regulation governing licensed nursing home
4 administrators.

5 (b) The system shall contain all of the following provisions:

6 (1) Citations shall be in writing and shall describe with
7 particularity the nature of the violation, including specific
8 reference to the provision of law determined to have been violated.

9 (2) Where appropriate, the citation shall contain an order of
10 abatement fixing reasonable time for abatement of the violation.

11 (3) (A) Administrative fines assessed by the program shall be
12 separate from and shall not preclude the levying of any other fines
13 or any civil or criminal penalty.

14 (B) In no event shall the administrative fine assessed by the
15 program exceed two thousand five hundred dollars (\$2,500) for
16 each violation. The total assessment shall not exceed ten thousand
17 dollars (\$10,000) for each investigation or for counts involving
18 fraudulent billings submitted to insurance companies, Medi-Cal,
19 or Medicare programs.

20 (4) In assessing a fine, the program shall give due consideration
21 to the appropriateness of the amount of the fine with respect to
22 factors such as the gravity of the violation, the good faith effort of
23 the licensee, examinee, or participant, the unprofessional conduct,
24 including, but not limited to, incompetence and negligence in the
25 performance of the duties and responsibilities of an administrator,
26 the extent to which the cited person has mitigated or attempted to
27 mitigate any damage or injury caused by his or her violation,
28 whether the violation was related to patient care, the history of any
29 previous violations, and other matters as may be appropriate.

30 (5) A citation or fine assessment issued pursuant to a citation
31 shall inform the licensee, examinee, or participant, that if he or she
32 desires a hearing to contest the finding of a violation, the hearing
33 shall be requested by written notice to the program within 30 days
34 after the date of issuance of the citation or assessment. A licensee
35 may, in lieu of contesting a citation pursuant to this section,
36 transmit to the state department 75 percent of the amount specified
37 in the citation for each violation within 15 business days after the
38 issuance of the citation.

39 (6) Failure of a licensee, examinee, or participant to pay a fine
40 within 30 days of the date of the assessment, unless the citation is

being appealed, may result in further disciplinary action being taken by the program. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine, along with any accrued penalty interest, shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, fine, and accrued interest penalty. A citation may be issued without the assessment of an administrative fine.

(c) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act. Notwithstanding any other provisions of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosures. Administrative fines collected pursuant to this section shall be deposited in the Nursing Home Administrator's State License Examining Fund.

1416.72. (a) The program may issue a citation to any person who holds a license from the program and who violates any statute or regulation governing licensed nursing home administrators.

(b) Any licensee served with a citation may contest the citation by appeal to the program within 30 days of service of the citation. Appeals shall be conducted pursuant to Section 100171.

(c) In addition to requesting a hearing before an administrative law judge, the licensee may, within 10 days after service of the citation, notify the department in writing of his or her request for an informal conference with the department regarding the violations cited in the citation. At the time of requesting an informal conference, the licensee shall inform the department whether he or she shall be represented at the informal conference by legal counsel. Failure to notify the department of legal representation shall not result in forfeiture of the right to have legal counsel present. Unless the request for an informal hearing is made within the 10-day period, the licensee's right to an informal hearing is deemed waived.

(d) The department shall hold an informal conference with the licensee and, if applicable, his or her legal counsel or authorized representatives. At the conclusion of the informal conference the department may affirm, modify, or dismiss the citation, including any administrative fine levied, or order of abatement issued.

(e) The licensee does not waive his or her request for a hearing to contest a citation by requesting an informal conference. If the

1 citation is dismissed after the informal conference, the request for
2 a hearing on the matter of the citation shall be deemed to be
3 withdrawn. If the citation, including any administrative fine levied
4 or order of abatement, is modified or affirmed, the citation shall
5 be upheld and the licensee shall, within 15 working days from the
6 date the citation review conference decision was rendered, notify
7 the director or the director's designee that he or she wishes to
8 appeal the decision through the procedures set forth in Section
9 100171.

10 1416.74. (a) The time allowed for abatement of violation
11 shall begin the first day after the order of abatement has been
12 served or received. If a licensee who has been issued an order of
13 abatement is unable to complete the correction within the time set
14 forth in the citation because of conditions beyond his or her control
15 after the exercise of reasonable diligence, the licensee may request
16 from the program an extension of time in which to complete the
17 correction. The request shall be in writing and made within the
18 time set for abatement.

19 (b) An order of abatement shall either be personally served
20 upon the licensee or mailed by certified mail, return receipt
21 requested.

22 (c) When an order of abatement is not contested, or if the order
23 is appealed and the licensee does not prevail, failure to abate the
24 violation cited within the time specified in the citation shall
25 constitute a violation and failure to comply with the order of
26 abatement. Where a licensee has failed to correct a violation within
27 the time specified in the citation the department shall assess the
28 licensee a civil penalty in the amount of fifty dollars (\$50) for each
29 day that the violation continues beyond the date specified in the
30 citation. If the licensee disputes a determination by the department
31 regarding alleged failure to correct a violation or regarding the
32 reasonableness of the proposed deadline for correction, the
33 licensee may request an informal conference to contest the
34 determination.

35 (d) Any unpaid administrative fine shall begin accruing a
36 7-percent interest penalty on the unpaid balance due. This interest
37 shall continue to accrue until the administrative fine and interest
38 are paid in full.

39 1416.76. The program may deny, or may suspend or revoke,
40 a nursing home administrator license or participation in specific

1 training program areas under this chapter upon any of the
2 following grounds:

3 (a) Unprofessional conduct, including, but not limited to,
4 incompetence and negligence in the performance of the duties and
5 responsibilities of an administrator.

6 (b) Misappropriation of funds or property of the facility, the
7 patients, or of others, or physical, mental, or verbal abuse of
8 patients or residents.

9 (c) Using fraud, deception, or misrepresentation in applying
10 for the AIT Program, the examination for licensure, or any other
11 program functions provided for in this chapter.

12 (d) Procuring a nursing home license by fraud, deception, or
13 misrepresentation.

14 (e) Impersonating any applicant or acting as a proxy for an
15 applicant in an examination.

16 (f) Impersonating any licensed nursing home administrator.

17 (g) Treating or attempting to treat any physical or mental
18 condition without having a valid license to do so.

19 (h) Violating Section 650 of the Business and Professions
20 Code, any provisions of this chapter, or any rule or regulation of
21 the program adopted pursuant to this chapter.

22 (i) Lack of any qualification requirement for a license,
23 participation in the AIT Program or preceptor program.

24 (j) A pattern of failure to report changes under Section 1416.60
25 to the program without just cause.

26 (k) Failure to comply with this chapter or the laws, rules, and
27 regulations relating to health facilities.

28 (l) The commission of any dishonest, corrupt, or fraudulent act
29 or any act of physical or mental, including sexual, abuse of any
30 person in connection with the administration of, or any patient in,
31 a nursing home.

32 (m) Discovery by the program of criminal record information
33 that was not disclosed to the program, including any criminal
34 convictions discovered by the program after licensure. This shall
35 include state, federal, and international criminal record
36 information.

37 (n) Violation by the licensee of any of the provisions of this
38 chapter or of the rules and regulations promulgated under this
39 chapter.

1 (o) Aiding, abetting, or permitting the violation of any
2 provisions of this chapter or of the rules and regulations
3 promulgated under this chapter.

4 (p) Conduct inimical to the public health, morals, welfare, or
5 safety of the people of the State of California in the provision of
6 services for which a license is issued.

7 (q) Violation of the examination security agreement, or failure
8 or refusal to sign the examination agreement.

9 1416.78. (a) The program may place a nursing home
10 administrator license on probation in lieu of formal action to
11 suspend or revoke the license if the department determines that
12 probation is the appropriate action.

13 (b) The probationary license shall be based upon an agreement
14 entered into between the licensee and the program that specifies
15 terms and conditions of licensure during the probationary period.
16 The terms and conditions shall be related to matters, including, but
17 not limited to, work performance, rehabilitation, training,
18 counseling, progress reports, and treatment programs.

19 (c) The term of the probationary license shall not exceed two
20 years. If the licensee successfully completes the term of probation,
21 as determined by the department, no further action shall be taken
22 upon the allegations that were the basis for the probationary
23 license. If the licensee fails to comply with the terms and
24 conditions of the probationary license agreement, the department
25 may proceed with a formal action to suspend or revoke the license.

26 1416.80. Upon the determination to deny application for
27 licensure for grounds specified in Section 1416.76, the program
28 shall immediately notify the applicant in writing by certified mail.
29 A petition for an administrative hearing must be received by the
30 program with 20 business days of receipt of notification. Upon
31 receipt, the department shall set the matter for administrative
32 hearing, pursuant to procedures specified in Section 100171.

33 1416.82. (a) Proceedings to suspend or revoke licensure for
34 grounds specified in Section 1416.76 shall be conducted in
35 accordance with Section 100171. In the event of conflict between
36 this chapter and Section 100171, Section 100171 shall prevail.

37 (b) (1) The program may temporarily suspend any license
38 prior to any hearing if the action is necessary to protect the public
39 welfare. The program shall notify the licensee of the temporary
40 suspension and the effective date. Upon receipt of a notice of

1 defense by the licensee, the department shall set the matter within
2 15 days. The administrative hearing conducted in accordance with
3 Section 100171 shall be held as soon as possible but not later than
4 30 days after receipt of the notice. The temporary suspension shall
5 remain in effect until the hearing is completed and the department
6 has made a final determination on the merits. However, the
7 temporary suspension shall be deemed vacated if the department
8 fails to make a final determination on the merits of the action
9 within 60 days after the original hearing has been completed. If the
10 provisions of this chapter or the rules or regulations promulgated
11 by the director are violated by a licensee, the director may suspend
12 the license for the violation.

13 (2) If the program determines that the temporary suspension
14 shall become an actual suspension, the department shall specify
15 the period of the suspension, not to exceed two years. The program
16 may determine that the suspension shall be stayed, and place the
17 licensee on probation for a period that shall not exceed two years.

18 (c) The program may revoke a license prior to any hearing
19 when immediate action is necessary in the judgment of the director
20 to protect the public welfare. Proceedings for immediate
21 revocation shall be conducted in accordance with Section 100171.
22 The department shall set the matter for hearing within 15 days and
23 hold the administrative hearing as soon as possible but not later
24 than 30 calendar days from receipt of the request for a hearing. A
25 written hearing decision upholding or setting aside the action shall
26 be sent by certified mail to the license holder within 30 calendar
27 days of the hearing.

28 1416.84. Whenever any person has engaged, or is about to
29 engage, in any acts or practices that constitute, or will constitute,
30 a violation of this chapter, the superior court in and for the county
31 in which those acts or practices take place, or are about to take
32 place, may issue an injunction or other appropriate order,
33 restraining the conduct on application of the program, the
34 Attorney General, or the district attorney.

35 1416.86. If any provision of this chapter, or the application
36 thereof to any person or circumstance, is held invalid, that
37 invalidity shall not affect other provisions or applications of this
38 chapter that can be given effect without the invalid provision or
39 application, and to this end the provisions of this chapter are
40 declared to be severable.

1 SEC. 6. Section 1429.5 of the Health and Safety Code is
2 repealed.

3 ~~1429.5. (a) The state department shall report enforcement~~
4 ~~actions taken against a facility, and the name of the licensed~~
5 ~~administrator of the facility, to the State Board of Nursing Home~~
6 ~~Administrators.~~

7 ~~(b) The following actions shall be reported to the State Board~~
8 ~~of Nursing Home Administrators:~~

9 ~~(1) Temporary suspension orders.~~

10 ~~(2) Final decertification from the Medi-Cal or Medicare~~
11 ~~programs based on failure to meet certification requirements.~~

12 ~~(3) Service of an accusation to revoke a facility's license.~~

13 ~~(4) Any class "AA" citations and three class "A" citations~~
14 ~~within the same facility with the same administrator within a one~~
15 ~~calendar year period. The State Department of Health Services~~
16 ~~shall notify the board in the event that citations are overturned or~~
17 ~~modified in citation review conference, through binding~~
18 ~~arbitration, or on appeal.~~

19 SEC. 7. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

