**Section 340.1130 Criteria for Adverse Licensure Actions**

a) Adverse licensure actions are determinations to deny the issuance of an initial license, to deny the issuance of a renewal of a license, or to revoke the current license of a facility.

b) The Director or his or her designee may take adverse licensure action against a facility based on a finding that one or more of the following criteria are met:

1) A *substantial failure* *to comply with* the *Act* or this Part. (Section 3-119(a)(1) of the Act) For purposes of this provision, substantial failure is a failure to meet the requirements of the Act and this Part that is other than a variance from strict and literal performance and that results only in unimportant omissions or defects given the particular circumstances involved. *A substantial failure by a facility shall include, but not be limited to, any of the following:*

A) *termination of Medicare or Medicaid certification by the Centers for Medicare and Medicaid Services; or*

B) *a failure by the facility to pay any fine assessed under* the *Act after the Department has sent to the facility at least 2 notices of assessment that include a schedule of payments as determined by the Department, taking into account extenuating circumstances and financial hardships of the facility.* (Section 3-119(a)(1) of the Act)

2) *Conviction of* *the* *licensee, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, during the previous five years as shown by a certified copy of the record of the court of conviction*. (Section 3-119 (a)(2) of the Act)

3) *Personnel* (or, for an initial applicant, the proposed personnel) are *insufficient in number or unqualified by training or experience to properly care for the number and type of residents served by the facility*. (Section 3-119(a)(3) of the Act)

4) *Financial or other resources are insufficient to conduct or operate the facility in accordance with* the Act and this Part. (Section 3-119(a)(4) of the Act)

5) *The facility is not under the direct supervision of a full- time administrator* as required by Section 340.1370. (Section 3-119(a)(5) of the Act)

6) *The facility has committed two Type "AA" violations within a two-year period*. (Section 3-119(a)(6) of the Act)

7) The rights of residents of the facility have been violated by any of the following actions:

A) A pervasive pattern of cruelty or indifference to residents has occurred in the facility.

B) The facility has appropriated the property of a resident or has converted a resident's property for the facility's use without the resident's written consent or the consent of the resident's legal guardian.

C) The facility has secured property, or a bequest of property, from a resident by undue influence.

8) False information has been knowingly submitted by the facility either on the licensure or renewal application forms or during the course of an inspection or survey of the facility.

9) *Refusal to permit entry or inspection* of the facility by agents of the Department. (Section 3-214 of the Act).

c) The Director or his or her designee shall consider all available evidence at the time of the determination, including the history of the facility and the applicant in complying with the Act and this Part, notices of violations that have been issued to the facility and the applicant, findings of surveys and inspections, and any other evidence provided by the facility, residents, law enforcement officials and other interested individuals.

(Source: Amended at 35 Ill. Reg. 11896, effective June 29, 2011)