

SENATE JOURNAL

STATE OF ILLINOIS

ONE HUNDRED SECOND GENERAL ASSEMBLY

120TH LEGISLATIVE DAY

FRIDAY, JANUARY 6, 2023

8:20 O'CLOCK A.M.

NO. 120 [January 6, 2023]

SENATE Daily Journal Index 120th Legislative Day

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HB 0240	Recalled – Amendment(s)	
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HB 3878	Recalled – Amendment(s)	
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HB 5107	Third Reading	
HB 5285	Recalled – Amendment(s)	
HB 5285	Third Reading	

The Senate met pursuant to adjournment.

Senator David Koehler, Peoria, Illinois, presiding.

Prayer by Pastor Scott Marsh, Texas Christian Church, Clinton, Illinois and Maroa Christian Church, Maroa, Illinois.

Senator Johnson led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Thursday, January 5, 2023, be postponed, pending arrival of the printed Journal.

The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

IDPH Annual Report 2022, submitted by the Department of Public Health.

DirectCare Communicable Diseases Report 2022, submitted by the Department of Veterans' Affairs.

IDVA Annual Report 2022, submitted by the Department of Veterans' Affairs.

Eavesdropping Report 2022, submitted by the Warren County State's Attorney.

IHDA Annual Report on CAHGP Funds 2022, submitted by the Illinois Housing Development Authority.

ALPLM Annual Report FY22, submitted by the Abraham Lincoln Presidential Library and Museum.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Amendment No. 2 to House Bill 969 Amendment No. 3 to House Bill 969 Amendment No. 1 to House Bill 5052

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT DON HARMON STATE OF ILLINOIS

327 STATE CAPITOL SPRINGFIELD, ILLINOIS 62706 217-782-2728 160 N. LASALLE ST., STE. 720 CHICAGO, ILLINOIS 60601 312-814-2075

January 6, 2023

Mr. Tim Anderson Secretary of the Senate Room 401 State House Springfield, IL 62706 Dear Mr. Secretary:

Pursuant to Rule 2-10, I am cancelling Session scheduled for Saturday, January 7, 2023. The Senate will convene on Sunday, January 8, 2023.

If you have any questions, please contact my Chief of Staff Jake Butcher.

Sincerely, s/Don Harmon Don Harmon Senate President

cc: Senate Republican Leader Dan McConchie

OFFICE OF THE SENATE PRESIDENT DON HARMON STATE OF ILLINOIS

327 STATE CAPITOL SPRINGFIELD, ILLINOIS 62706 217-782-2728 160 N. LASALLE ST., STE. 720 CHICAGO, ILLINOIS 60601 312-814-2075

January 6, 2023

Mr. Tim Anderson Secretary of the Senate Room 401 State House Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to Rule 2-10, the Senate will convene at 5:00 PM on Sunday, January 8, 2023.

If you have any questions, please contact my Chief of Staff Jake Butcher.

Sincerely, s/Don Harmon Don Harmon Senate President

cc: Senate Republican Leader Dan McConchie

REPORT FROM STANDING COMMITTEE

Senator Castro, Chair of the Committee on Executive, to which was referred **House Bill No. 1688**, reported the same back with the recommendation that the bill do pass. Under the rules, the bill was ordered to a second reading.

Senator Castro, Chair of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 240 Senate Amendment No. 1 to House Bill 4412 Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Amendment No. 1 to House Bill 1688 Amendment No. 2 to House Bill 4412 Amendment No. 3 to House Bill 4412

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Hollman, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1534

A bill for AN ACT concerning regulation.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1534

House Amendment No. 2 to SENATE BILL NO. 1534

House Amendment No. 3 to SENATE BILL NO. 1534

House Amendment No. 4 to SENATE BILL NO. 1534

Passed the House, as amended, January 5, 2023.

JOHN W. HOLLMAN, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1534

AMENDMENT NO. 1 . Amend Senate Bill 1534 by replacing everything after the enacting clause with the following:

"Section 5. The Cemetery Care Act is amended by changing Sections 2, 3, 4, 5, 14, and 15a and by adding Sections 3.1, 4.1, and 4.2 as follows:

(760 ILCS 100/2) (from Ch. 21, par. 64.2)

Sec. 2. Definitions. The following words, terms and phrases used in this Act, for the purpose of this Act, have the following meanings:

"Person" means any person, partnership, association, corporation, or other entity.

"Trustee" means any person authorized to hold funds under this Act.

"Comptroller" means the Comptroller of the State of Illinois.

"Care" means the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers therein; including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) keeping in repair the drains, water lines, roads, buildings, fences, and other structures, in keeping with a well maintained cemetery; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of employees, payment of insurance premiums, and reasonable payments for employees pension and other benefits plans; and (v) to the extent surplus income from the care fund is available, the payment of overhead expenses necessary for such purposes and for maintaining necessary records of lot ownership, transfers, and burials.

"Care funds" as distinguished from receipts from annual charges or gifts for current or annual care, means any realty or personalty impressed with a trust by the terms of any gift, grant, contribution, payment, legacy, or pursuant to contract, accepted by any cemetery authority owning, operating, controlling or managing a privately operated cemetery, or by any trustee or licensee, agent or custodian for the same, under Section 3 of this Act, and the amounts set aside under Section 4 of this Act, and any income accumulated therefrom, where legally so directed by the terms of the transaction by which the principal was established.

"Cemetery" means any land or structure in this State dedicated to and used, or intended to be used, for the interment of human remains.

"Cemetery authority" means any person, firm, corporation, trustee, partnership, association or municipality owning, operating, controlling or managing a cemetery or holding lands for burial grounds or burial purposes in this State.

"Mausoleum crypt" means a space in a mausoleum used or intended to be used, above or under ground, to entomb human remains.

"Family burying ground" means a cemetery in which no lots are sold to the public and in which interments are restricted to a group of persons related to each other by blood or marriage.

"Fraternal cemetery" means a cemetery owned, operated, controlled, or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of lots, graves, crypts or niches is restricted principally to its members.

"Grave" means a space of ground in a cemetery, used, or intended to be used, for burial.

"Investment Company Act of 1940" means Title 15, of the United States Code, Sections 80a-1 to 80a-51, inclusive, as amended.

"Investment Company" means any issuer (a) whose securities are purchasable only with care funds or trust funds, or both; and (b) which is an open and diversified management company as defined in and registered under the "Investment Company Act of 1940"; and (c) which has entered into an agreement with the Comptroller containing such provisions as the Comptroller by regulation reasonably requires for the proper administration of this Act.

"Municipal cemetery" means a cemetery owned, operated, controlled or managed by any city, village, incorporated town, township, county, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

"Niche" means a space in a columbarium used or intended to be used, for inurnment of cremated human remains.

"Privately operated cemetery" means any entity that offers interment rights, entombment rights, or inurnment rights, other than a fraternal, municipal, State, federal or religious cemetery or a family burying ground.

"Religious cemetery" means a cemetery owned, operated, controlled, or managed by any recognized church, religious society, association or denomination, or by any cemetery authority or any corporation administering, or through which is administered, the temporalities of any recognized church, religious society, association or denomination.

"State or federal cemetery" means a cemetery owned, operated, controlled, or managed by any State or the federal government or any political subdivision or instrumentality thereof.

"Entombment right" means the right to place individual human remains or individual cremated human remains in a specific mausoleum crypt or lawn crypt selected by the consumer for use as a final resting place.

"Interment right" means the right to place individual human remains or cremated human remains in a specific underground location selected by the consumer for use as a final resting place.

"Inurnment right" means the right to place individual cremated human remains in a specific niche selected by the consumer for use as a final resting place.

"Lawn crypt" means a permanent underground crypt usually constructed of reinforced concrete or similar material installed in multiple units for the entombment of human remains.

"Imputed value" means the retail price of comparable rights within the same or similar area of the cemetery.

"Average fair market value" means the average of the fair market values of assets held by the fund on the first day of the current fiscal year and the first day of each of the 2 preceding fiscal years, or the average of the fair market value for the entire term of the fund if there are less than 2 preceding years.

"Total return percentage" means the annual percentage selected by the fund's trustee or the cemetery authority, but no less than 3% and no more than 5% of the average fair market value of the fund.

"Net income" means:

(1) ordinary income, which means all net interest and dividends, after fees and taxes taken from income, but does not include any capital gains from the investment of such care funds; or

(2) total return distribution, which means the distribution of funds from the care fund based on the average fair market value of the fund assets multiplied by the total return percentage.

(Source: P.A. 92-651, eff. 7-11-02.)

(760 ILCS 100/3) (from Ch. 21, par. 64.3)

Sec. 3. Gifts and contributions - Trust funds. Any cemetery authority is hereby authorized and empowered to accept any gift, grant, contribution, payment, legacy, or pursuant to contract, any sum of money, funds, securities or property of any kind, or the income or avails thereof, and to establish a trust fund to hold the same in perpetuity for the care of its cemetery, or for the care of any lot, grave, crypt or niche in its cemetery; or for the special care of any lot, grave, crypt or niche or of any family mausoleum or memorial, marker, or monument in its cemetery.

The cemetery authority shall act as trustee of all amounts received for care until they have been deposited into the trust fund established under this Section. The cemetery authority may continue to be the trustee of up to \$500,000 of care funds that have been deposited into the trust fund, but the cemetery authority must retain an independent trustee for any amount of care funds held in trust in excess of that \$500,000. A cemetery authority holding care funds in excess of \$500,000 on the effective date of this amendatory Act of 1996 shall have 36 months to retain an independent trustee for the excess amounts held in trust; any other cemetery authority must retain an independent trustee for its care funds in excess of \$500,000 as soon as may be practical.

No gift, grant, legacy, payment or other contribution shall be invalid by reason of any indefiniteness or uncertainty as to the beneficiary designated in the instrument creating the gift, grant, legacy, payment or other contribution. If any gift, grant, legacy, payment or other contribution consists of non-income producing property, the cemetery authority accepting it is authorized and empowered to sell such property and to invest the funds obtained in accordance with the provisions of the next succeeding paragraph.

The care funds authorized by this Section and provided for in Section 4 of this Act shall be held intact and, unless otherwise restricted by the terms of the gift, grant, legacy, contribution, payment, contract or other payment, as to investments made after June 11, 1951 the trustee of the care funds of the cemetery authority, in acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for any such trust, shall exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the trustee of the care funds of the cemetery authority is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment, including specifically but without limiting the generality of the foregoing, bonds, debentures and other corporate obligations, preferred or common stocks and real estate mortgages, which persons of prudence, discretion and intelligence acquire or retain for their own account. Within the limitations of the foregoing standard, the trustee is authorized to retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase. The care funds authorized by this Section may be commingled with other trust funds received by such cemetery authority for the care of its cemetery or for the care or special care of any lot, grave, crypt, niche, private mausoleum, memorial, marker, or monument in its cemetery, whether received by gift, grant, legacy, contribution, payment, contract or other conveyance heretofore or hereafter made to such cemetery authority. Such care funds may be invested with common trust funds as provided in the The Common Trust Fund Act. The net income only from the investment of such care funds shall be allocated and used for the purposes specified in the transaction by which the principal was established in the proportion that each contribution bears to the entire sum invested.

(Source: P.A. 89-615, eff. 8-9-96.)

(760 ILCS 100/3.1 new)

Sec. 3.1. Master trust fund. For the purposes of collective investment and administration, a trustee may apply to the Comptroller to establish a master trust fund in which deposits are made pursuant to the provisions of this Act. The operation of the master trust fund shall be subject to the provisions of this Act and rules applicable to this Act. The master trust fund shall be subject to the following requirements:

(1) it shall include only cemetery authorities located in this State that have given written consent to participate in a master trust fund;

(2) it must be administered by an independent trustee;

 $\overline{(3)}$ the trustee of a master trust fund shall maintain separate records of principal and income for each participant in the master trust fund;

(4) the income and associated expenses of the master trust fund shall be divided among the participants in the master trust fund based on the proportion that each participant contributes to the balance of the master trust fund; and

(5) the trustee shall make accounting records of the trust, including a report that will include itemized separate accounting for each participant in the master trust fund, available for review and audit upon request by the Comptroller.

(760 ILCS 100/4) (from Ch. 21, par. 64.4)

Sec. 4. Care funds; deposits; investments.

Whenever a cemetery authority owning, operating, controlling or managing a privately operated cemetery accepts care funds, either in connection with the sale or giving away at an imputed value of an interment right, entombment right or inurnment right, or in pursuance of a contract, or whenever, as a condition precedent to the purchase or acceptance of an interment right, entombment right or inurnment right, such cemetery authority requires the establishment of a care fund or a deposit in an already existing care fund, then such cemetery authority shall execute and deliver to the person from whom received an instrument in writing which shall specifically state: (a) the nature and extent of the care to be furnished, and (b) that such care shall be furnished only in so far as the net income derived from the amount deposited in trust will permit (the income from the amount so deposited, less necessary expenditures of administering the trust, shall be deemed the net income), and (c) that not less than the following amounts will be set aside and deposited in trust:

1. For interment rights, \$1 per square foot of the space sold or 15% of the sales price or imputed value, whichever is the greater, with a minimum of \$25 for each individual interment right.

2. For entombment rights, not less than 10% of the sales price or imputed value with a minimum of \$25 for each individual entombment right.

3. For inurnment rights, not less than 10% of the sales price or imputed value with a minimum of \$15 for each individual inurnment right.

4. For any transfer of interment rights, entombment rights, or inurnment rights recorded in the records of the cemetery authority, excepting only transfers between members of the immediate family of the transferor, a minimum of \$25 for each such right transferred. For the purposes of this paragraph "immediate family of the transferor" means the spouse, parents, grandparents, children, grandchildren, and siblings of the transferor.

5. Upon an interment, entombment, or inurnment in a grave, crypt, or niche in which rights of interment, entombment, or inurnment were originally acquired from a cemetery authority prior to January 1, 1948, a minimum of \$25 for each such right exercised.

6. For the special care of any lot, grave, crypt, or niche or of a family mausoleum, memorial, marker, or monument, the full amount received.

Such setting aside and deposit shall be made by such cemetery authority not later than 30 days after the close of the month in which the cemetery authority gave away for an imputed value or received the final payment on the purchase price of interment rights, entombment rights, or inurnment rights, or received the final payment for the general or special care of a lot, grave, crypt or niche or of a family mausoleum, memorial, marker or monument; and such amounts shall be held by the trustee of the care funds of such cemetery authority in trust in perpetuity for the specific purposes stated in said written instrument. For all care funds received by a cemetery authority, except for care funds received by a cemetery authority pursuant to a specific gift, grant, contribution, payment, legacy, or contract that are subject to investment restrictions more restrictive than the investment provisions set forth in this Act, and except for care funds otherwise subject to a trust agreement executed by a person or persons responsible for transferring the specific gift, grant, contribution, payment, or legacy to the cemetery authority that contains investment restrictions more restrictive than the investment provisions set forth in this Act, the cemetery authority may, without the necessity of having to obtain prior approval from any court in this State, designate a new trustee in accordance with this Act and invest the care funds in accordance with this Section, notwithstanding any contrary limitation contained in the trust agreement.

Any such cemetery authority engaged in selling or giving away at an imputed value interment rights, entombment rights or inurnment rights, in conjunction with the selling or giving away at an imputed value any other merchandise or services not covered by this Act, shall be prohibited from increasing the sales price or imputed value of those items not requiring a care fund deposit under this Act with the purpose of allocating a lesser sales price or imputed value to items that require a care fund deposit.

In the event any sale that would require a deposit to such cemetery authority's care fund is made by a cemetery authority on an installment basis, and the installment contract is factored, discounted, or sold to a third party, the cemetery authority shall deposit the amount due to the care fund within 30 days after the close of the month in which the installment contract was factored, discounted, or sold. If, subsequent to such deposit, the purchaser defaults on the contract such that no care fund deposit on that contract would have been required, the cemetery authority may apply the amount deposited as a credit against future required deposits.

The trust authorized by this Section shall be a single purpose trust fund. In the event of the seller's bankruptcy, insolvency, or assignment for the benefit of creditors, or an adverse judgment, the trust funds shall not be available to any creditor as assets of the cemetery authority or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery. Except in an action by the Comptroller to revoke a license issued pursuant to this Act and for creation of a receivership as provided in this Act, the trust shall not be subject to judgment, execution, garnishment, attachment, or other seizure by process in bankruptcy or otherwise, nor to sale, pledge, mortgage, or other alienation, and shall not be assignable except as approved by the Comptroller. The changes made by this amendatory Act of the 91st General Assembly are intended to clarify existing law regarding the inability of licensees to pledge the trust.

(Source: P.A. 91-7, eff. 6-1-99.)

(760 ILCS 100/4.1 new)

Sec. 4.1. Distributions.

(a) A cemetery authority may take distributions from its fund either by distributing:

(1) ordinary income; or

(2) total return distribution.

(b) If a cemetery authority takes distributions from its fund by total return distribution, the following apply:

(1) Fees and taxes may be paid from corpus.

(2) If the fees paid by the care fund exceed 2% of the fair market value at the end of a given year, the amount in excess shall be paid from the distributions.

(c) A cemetery authority may select a distribution method by delivering written instructions to the trustee of the fund no later than 30 days before the beginning of the calendar year. The distribution method and the distribution rate selected shall remain in effect unless the cemetery notifies the trustee of its desire to effect a change, application for the change has been submitted to the Comptroller as required in Section 4.2, and copies of the documentation are submitted to the trustee. If the trustee does not receive written instructions from the cemetery authority informing the trustee of the method of calculating chosen, then the trustee shall calculate and distribute based on the ordinary income distribution method. The trustee shall distribute income to the cemetery authority at least annually or in more frequent installments as agreed to by the trustee and cemetery authority.

(760 ILCS 100/4.2 new)

Sec. 4.2. Application for total return distribution and restrictions.

(a) An application for the implementation of the total return distribution method shall be submitted to the Comptroller at least 120 days before the effective date of the election to receive total return distribution. In addition to submitting payment of a reasonable application fee, the cemetery authority shall provide the Comptroller with all of the following:

(1) A written investment policy. The investment goals shall be to achieve principal growth through allowable investments for care fund trusts with a secondary goal of achieving current income.

(2) A care fund trust agreement that clearly shows the selection of the total return distribution method.

(3) A written distribution policy establishing the total return percentage and initial estimated average fair market value, using the most recent month-end balances as the estimate for the current year, signed by the cemetery authority or trustee, along with supporting documentation and additional information as may be required by the rules adopted under this Act.

(b) The application shall be considered approved unless the cemetery authority or trustee is notified otherwise by the Comptroller within 90 days of receipt. The notification shall contain details of the information needed to remedy any deficiencies in the application.

(c) The total return percentage elected may be reduced but may not be increased unless additional application is made to the Comptroller with documentation demonstrating the rate of return of the care funds over the last 3 years to support an increase in the percentage.

(d) A cemetery authority that has elected the total return distribution method may elect to reconvert to the ordinary income distribution method by submitting written documentation to the Comptroller in support of the reconversion, including a copy of the trust agreement, notification on the proposed effective date of the reconversion, and any additional information required by the Comptroller.

(e) The Comptroller may take corrective measures, including reducing the total return percentage or requiring a distribution of only ordinary income for a year under one or more of the following circumstances:

(1) if the average fair market value of the care fund from one 3-year period to the previous 3-year period declines by 10% or more;

(2) if the fair market value of the fund at the beginning of a fiscal year is less than 80% of the fair market value of the fund on the first day of the fiscal year when the care fund started making distributions based on the total return distribution method;

(3) if there is an uncorrected care fund deficiency as determined by the Comptroller's review of the annual report; or

(4) if the Comptroller determines that the trustee is not able to demonstrate sufficient knowledge and expertise regarding the effective implementation of distributing income for the maintenance of the cemetery using the total return distribution method.

(f) The Comptroller may evaluate the care fund conditions and choose not to impose corrective measures if the Comptroller finds that:

(1) the reasons are due to unusual or temporary factors not within the control of the cemetery authority or the trustee and that could not have been reasonably anticipated;

(2) the current investment policy of the fund is reasonably designed to protect the fund from further declines in fair market value; or

(3) the exception appears to be both necessary and appropriate for the continued protections of the care fund.

(760 ILCS 100/5) (from Ch. 21, par. 64.5)

Sec. 5. <u>Advertising</u>. No cemetery authority, nor any agent, servant, or employee of it, nor any other person, shall advertise, represent, guarantee, promise, or contract that perpetual care, permanent care, perpetual or permanent maintenance, care forever, continuous care, eternal care, everlasting care, or any similar or equivalent care, or care for any number of years of any cemetery or of any lot, grave, crypt or niche, or of any family mausoleum, memorial, marker, or monument, will be furnished: Provided, however, that any cemetery authority may advertise, represent, guarantee, promise or contract that care will be furnished from the net income only derived from funds held in trust as provided in <u>Sections Section 3 and 4</u> of this Act; and may advertise, represent, guarantee, promise or contract that care will be given any lot, grave, crypt, or niche, or any family mausoleum, memorial, marker, or monument for any definite number of years, such care to be furnished under a contract providing that the principal of the amount paid under the contract shall be used to furnish the care and further providing specifically the care to be given and the number of years for which it is to be given.

(Source: Laws 1947, p. 338.)

(760 ILCS 100/14) (from Ch. 21, par. 64.14)

Sec. 14. The Comptroller may at any time investigate the cemetery business of every licensee with respect to its care funds. The Comptroller shall examine at least annually every licensee who has holds \$250,000 or more in its care funds. For that purpose, the Comptroller shall have free access to the office and places of business and to such records of all licensees and of all trustees of the care funds of all licensees as shall relate to the acceptance, use and investment of care funds. The Comptroller may require the attendance of and examine under oath all persons whose testimony he may require relative to such business and in such cases the Comptroller or any qualified representative of the Comptroller whom the Comptroller may designate, may administer oaths to all such persons called as witnesses, and the Comptroller, or any such qualified representative of the S10,000 or more in such fund; otherwise, by the Comptroller. The charge made by the Comptroller for such examination shall be based upon the total amount of care funds held by the cemetery authority as of the end of the calendar or fiscal year for which a report is required by Section 12 of this Act and shall be in accordance with the following schedule:

[January 6, 2023]

Any licensee which is not required to be examined annually shall submit an annual report to the Comptroller containing such information as the Comptroller reasonably may request.

The Comptroller may order additional audits or examinations as he or she may deem necessary or advisable to ensure the safety and stability of the trust funds and to ensure compliance with this Act. These additional audits or examinations shall only be made after good cause is established by the Comptroller in the written order. The grounds for ordering these additional audits or examinations may include, but shall not be limited to:

(1) material and unverified changes or fluctuations in trust balances;

(2) the licensee changing trustees more than twice in any 12-month period;

(3) any withdrawals or attempted withdrawals from the trusts in violation of this Act; or

(4) failure to maintain or produce documentation required by this Act for deposits into trust accounts or trust investment activities.

Prior to ordering an additional audit or examination, the Comptroller shall request the licensee to respond and comment upon the factors identified by the Comptroller as warranting the subsequent examination or audit. The licensee shall have 30 days to provide a response to the Comptroller. If the Comptroller decides to proceed with the additional examination or audit, the licensee shall bear the full cost of that examination or audit and receive reimbursement from the licensee. Payment of the costs of the examination or audit and receive reimbursement from the licensee. Payment of the costs of the examination or audit be a condition of receiving or maintaining a license under this Act. All moneys received by the Comptroller for examination or audit fees shall be maintained in a separate account to be known as the Comptroller's Administrative Fund. This Fund, subject to appropriation by the General Assembly, may be utilized by the Comptroller for enforcing this Act and other purposes that may be authorized by law.

(Source: P.A. 89-615, eff. 8-9-96.)

(760 ILCS 100/15a) (from Ch. 21, par. 64.15a)

Sec. 15a. Where any cemetery authority owning, operating, controlling or managing a privately operated cemetery or any trustee for the same has accepted care funds within the meaning of this Act, and is considered abandoned or seeks dissolution dissolution is sought by such cemetery authority in any manner, by resolution of such cemetery authority, or the trustees thereof, notice shall be given to the Comptroller of such intention to dissolve, and proper disposition shall be made of the care funds so held for the general benefit of such lot owners by or for the benefit of such cemetery authority, as provided by law, or in accordance with the trust provisions of any gift, grant, contribution, payment, legacy or pursuant to any contract whereby such funds were created. The Comptroller represented by the Attorney General may apply to the circuit court for the appointment of a receiver, trustee, successor in trust, or for directions of such court as to the proper disposition to be made of such care funds, to the end that the uses and purposes for which such trust or care funds were created may be accomplished. Where no such receiver is available, the circuit court may order a willing local municipality, township, county, or city to take over the cemetery. Any existing deed or care funds may be conveyed or transferred to the unit of local government. If there is no party available to convey the deed or transfer the care funds, then a judicial deed and court order may be obtained in the county in which the cemetery is located, and such deed or other writing, if it relates to land, shall promptly, after its execution by a judge or the sheriff, be recorded in the recorder's office of the county wherein the land is situated. Any cemetery taken over by a local municipality, township, county, or city shall be considered a municipal cemetery for the purposes of this Act.

(Source: P.A. 87-747; 88-477.)

(760 ILCS 100/25 rep.)

Section 10. The Cemetery Care Act is amended by repealing Section 25.".

AMENDMENT NO. 2 TO SENATE BILL 1534

AMENDMENT NO. 2 . Amend Senate Bill 1534, AS AMENDED, by inserting at the end of the bill the following:

"Section 99. Effective date. This Act takes effect January 1, 2023.".

AMENDMENT NO. 3 TO SENATE BILL 1534

AMENDMENT NO. 3 . Amend Senate Bill 1534, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 17, line 1, after the period, by inserting "The total return distribution shall not exceed 5% of the average fair market value of the fund assets in a given calendar year."; and

on page 17, immediately below line 15, by inserting the following:

"(2) if the average fair market value of the care fund declines by more than 30% during a rolling 5-year period;"; and

on page 17, line 16, by replacing "(2)" with "(3)"; and

on page 17, line 21, by replacing "(3)" with "(4)"; and

on page 17, line 24, by replacing "(4)" with "(5)".

AMENDMENT NO. 4 TO SENATE BILL 1534

AMENDMENT NO. 4. Amend Senate Bill 1534, AS AMENDED, by replacing everything after the enacting clause with the following:

"Article 1

Section 1-1. Short title; references to Act.

(a) This Article may be cited as the Public Higher Education Emergency Health Act. References in this Article to "this Act" mean this Article.

(b) This Act, including the new and amendatory provisions, may be referred to as the Patient and Provider Protection Act.

Section 1-3. Intent. It is the intent of the General Assembly that the requirements set forth in this Act should apply equally to each public institution of higher education in this State and to the governing board of each public institution of higher education in this State.

Section 1-5. Definitions. As used in this Act:

"Emergency contraception" means medication approved by the federal Food and Drug Administration that can significantly reduce the risk of pregnancy if taken within 72 hours after unprotected sexual intercourse.

"Governing board of each public institution of higher education" means the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Western Illinois University, and the board of trustees of each community college district in this State.

"Public institution of higher education" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, a public community college in this State, or any other public university, college, or community college now or hereafter established or authorized by the General Assembly.

Section 1-10. Emergency contraception availability on campus.

[January 6, 2023]

(a) The governing board of each public institution of higher education shall make emergency contraception available for purchase through at least one vending machine located on each campus under its jurisdiction.

(b) A public institution of higher education shall ensure that the emergency contraception made available through each vending machine satisfies, at a minimum, all of the following requirements:

(1) The emergency contraception must be sold only in the manufacturer's clearly labeled, original, unbroken, tamper-proof, and expiration-dated packaging.

(2) The emergency contraception may not be dispensed after the manufacturer's expiration date.

(3) The emergency contraception must be stored in accordance with manufacturer recommendations.

(4) The emergency contraception must be made available at a reduced price, which may not exceed \$40.

(c) A public institution of higher education shall ensure that each vending machine has, at a minimum:

(1) an obvious and legible statement on the machine that identifies the owner of the machine;

(2) a toll-free telephone number at which the consumer may contact the owner of the machine; and

(3) a statement advising the consumer to check the expiration date of the product before using the product.

Article 2

Section 2-5. The State Employees Group Insurance Act of 1971 is amended by changing Section 6.11 as follows:

(5 ILCS 375/6.11)

(Text of Section before amendment by P.A. 102-768)

Sec. 6.11. Required health benefits; Illinois Insurance Code requirements. The program of health benefits shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t of the Illinois Insurance Code. The program of health benefits shall provide the coverage required under Sections 356g, 356g.5, 356g.5-1, 356m, 356q, 356u, 356w, 356x, 356z.2, 356z.4, 356z.4a, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, and 356z.51, and 356z.53, 356z.54, 356z.56, 356z.57, 356z.59, and 356z.60 of the Illinois Insurance Code. The program of health benefits must comply with Sections 155.22a, 155.37, 355b, 356z.19, 370c, and 370c.1 and Article XXXIIB of the Illinois Insurance Code. The Department of Insurance Shall enforce the requirements of this Section with respect to Sections 370c and 370c.1 of the Illinois Insurance Code; all other requirements of this Section shall be enforced by the Department of Central Management Services.

Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 101-13, eff. 6-12-19; 101-281, eff. 1-1-20; 101-393, eff. 1-1-20; 101-452, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-103, eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-860, eff. 1-1-23; 102-1093, eff. 1-1-23; revised 12-13-22.)

(Text of Section after amendment by P.A. 102-768)

Sec. 6.11. Required health benefits; Illinois Insurance Code requirements. The program of health benefits shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t of the Illinois Insurance Code. The program of health benefits shall provide the coverage required under Sections 356g, 356g.5, 356g.5-1, 356m, 356q, 356u, 356w, 356x, 356z.2, 356z.4, 356z.4a, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, and 356z.51, and 356z.53, 356z.54, 356z.55, 356z.56, 356z.57, 356z.59, and 356z.60 of the Illinois Insurance Code. The program of health benefits must comply with Sections 155.22a, 155.37, 355b, 356z.19, 370c, and 370c.1 and Article XXXIIB of the Illinois Insurance Code. The

Department of Insurance shall enforce the requirements of this Section with respect to Sections 370c and 370c.1 of the Illinois Insurance Code; all other requirements of this Section shall be enforced by the Department of Central Management Services.

Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 101-13, eff. 6-12-19; 101-281, eff. 1-1-20; 101-393, eff. 1-1-20; 101-452, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-103, eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-768, eff. 1-1-24; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-860, eff. 1-1-23; 102-1093, eff. 1-1-23; revised 12-13-22.)

Section 2-10. The Counties Code is amended by changing Section 5-1069.3 as follows: (55 ILCS 5/5-1069.3)

Sec. 5-1069.3. Required health benefits. If a county, including a home rule county, is a self-insurer for purposes of providing health insurance coverage for its employees, the coverage shall include coverage for the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g, 356g.5, 356g.5-1, 356d, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, 356z.48, and 356z.51, and 356z.53, 356z.54, 356z.56, 356z.57, 356z.59, and 356z.60 of the Illinois Insurance Code. The coverage shall comply with Sections 155.22a, 355b, 356z.19, and 370c of the Illinois Insurance Code. The Department of Insurance shall enforce the requirements of this Section. The requirement that health benefits be covered as provided in this Section is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution. A home rule county to which this Section applies must comply with every provision of this Section.

Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 101-81, eff. 7-12-19; 101-281, eff. 1-1-20; 101-393, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-103, eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-806, eff. 1-1-23; 102-1093, eff. 1-1-23; revised 12-13-22.)

Section 2-15. The Illinois Municipal Code is amended by changing Section 10-4-2.3 as follows: (65 ILCS 5/10-4-2.3)

Sec. 10-4-2.3. Required health benefits. If a municipality, including a home rule municipality, is a self-insurer for purposes of providing health insurance coverage for its employees, the coverage shall include coverage for the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g, 356g, 5, 356g, 5, 356g, 5, 356g, 356u, 356u, 356u, 356x, 356z, 6, 356z, 8, 356z, 9, 356z, 10, 356z, 11, 356z, 12, 356z, 13, 356z, 14, 356z, 15, 356z, 22, 356z, 25, 356z, 26, 356z, 29, 356z, 30a, 356z, 32, 356z, 33, 356z, 36, 356z, 40, 356z, 41, 356z, 45, 356z, 46, 356z, 47, 356z, 48, and 356z, 51, and 356z, 53, 356z, 54, 356z, 55, 356z, 55, 356z, 59, and 356z, 60 of the Illinois Insurance Code. The coverage shall comply with Sections 155, 22a, 355b, 356z, 19, and 370c of the Illinois Insurance Code. The Department of Insurance shall enforce the requirements of this Section. The requirement that health benefits be covered as provided in this is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution. A home rule municipality to which this Section applies must comply with every provision of this Section.

Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

[January 6, 2023]

(Source: P.A. 101-81, eff. 7-12-19; 101-281, eff. 1-1-20; 101-393, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-103, eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-806, eff. 1-1-23; 102-1093, eff. 1-1-23; revised 12-13-22.)

Section 2-20. The School Code is amended by changing Section 10-22.3f as follows: (105 ILCS 5/10-22.3f)

Sec. 10-22.3f. Required health benefits. Insurance protection and benefits for employees shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g, 356g, 5, 356g, 5-1, 356d, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, and 356z.51, and 356z.53, 356z.54, 356z.56, 356z.57, 356z.59, and 356z.60 of the Illinois Insurance Code. Insurance policies shall comply with Sections 356z, and 370c of the Illinois Insurance Code. The Department of Insurance shall enforce the requirements of this Section.

Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 101-81, eff. 7-12-19; 101-281, eff. 1-1-20; 101-393, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-103, eff. 1-1-22; 102-203, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-800, eff. 1-1-23; 102-1093, eff. 1-1-23; revised 12-13-22.)

Section 2-25. The Illinois Insurance Code is amended by changing Section 356z.4a and by adding Section 356z.60 as follows:

(215 ILCS 5/356z.4a)

Sec. 356z.4a. Coverage for abortion.

(a) Except as otherwise provided in this Section, no individual or group policy of accident and health insurance that provides pregnancy-related benefits may be issued, amended, delivered, or renewed in this State after the effective date of this amendatory Act of the 101st General Assembly unless the policy provides a covered person with coverage for abortion care. Regardless of whether the policy otherwise provides prescription drug benefits, abortion care coverage must include medications that are obtained through a prescription and used to terminate a pregnancy, regardless of whether there is proof of pregnancy.

(b) Coverage for abortion care may not impose any deductible, coinsurance, waiting period, or other cost-sharing limitation that is greater than that required for other pregnancy-related benefits covered by the policy.

(c) Except as otherwise authorized under this Section, a policy shall not impose any restrictions or delays on the coverage required under this Section.

(d) This Section does not, pursuant to 42 U.S.C. 18054(a)(6), apply to a multistate plan that does not provide coverage for abortion.

(e) If the Department concludes that enforcement of this Section may adversely affect the allocation of federal funds to this State, the Department may grant an exemption to the requirements, but only to the minimum extent necessary to ensure the continued receipt of federal funds.

(Source: P.A. 101-13, eff. 6-12-19.)

(215 ILCS 5/356z.60 new)

Sec. 356z.60. Coverage for abortifacients, gender-affirming health care medications, and human immunodeficiency virus pre-exposure prophylaxis and post-exposure prophylaxis.

(a) As used in this Section:

"Abortifacients" means any medication administered to terminate a pregnancy by a health care professional.

"Gender-affirming health care medication" means any medication administered to treat gender dysphoria, including hormonal treatment.

"Health care professional" means a physician licensed to practice medicine in all of its branches, licensed advanced practice registered nurse, or physician assistant.

"Therapeutic equivalent version" means drugs, devices, or products that can be expected to have the same clinical effect and safety profile when administered to patients under the conditions specified in the labeling and that satisfy the following general criteria:

(1) it is approved as safe and effective;

(2) it is a pharmaceutical equivalent in that it:

(A) contains identical amounts of the same active drug ingredient in the same dosage form and route of administration; and

(B) meets compendial or other applicable standards of strength, quality, purity, and identity;

(3) it is bioequivalent in that:

(A) it does not present a known or potential bioequivalence problem and it meets an acceptable in vitro standard; or

(B) if it does present such a known or potential problem, it is shown to meet an appropriate bioequivalence standard;

(4) it is adequately labeled; and

(5) it is manufactured in compliance with Current Good Manufacturing Practice regulations adopted by the United States Food and Drug Administration.

(b) An individual or group policy of accident and health insurance amended, delivered, issued, or renewed in this State after the effective date of this amendatory Act of the 102nd General Assembly shall provide coverage for all abortifacients, gender-affirming health care medication, human immunodeficiency virus pre-exposure prophylaxis and post-exposure prophylaxis drugs approved by the United States Food and Drug Administration, and follow-up services related to that coverage, including, but not limited to, management of side effects, medication self-management or adherence counseling, risk reduction strategies, and mental health counseling.

(c) The coverage required under subsection (b) is subject to the following conditions:

(1) If the United States Food and Drug Administration has approved one or more therapeutic equivalent versions of an abortifacient drug, a policy is not required to include all such therapeutic equivalent versions in its formulary so long as at least one is included and covered without cost sharing and in accordance with this Section.

(2) If an individual's attending provider recommends a particular drug approved by the United States Food and Drug Administration based on a determination of medical necessity with respect to that individual, the plan or issuer must defer to the determination of the attending provider and must cover that service or item without cost sharing.

(3) If a drug is not covered, plans and issuers must have an easily accessible, transparent, and sufficiently expedient process that is not unduly burdensome on the individual or a provider or other individual acting as a patient's authorized representative to ensure coverage without cost sharing.

(d) Except as otherwise provided in this Section, a policy subject to this Section shall not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided. The provisions of this subsection do not apply to coverage of procedures to the extent such coverage would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to the federal Internal Revenue Code, 26 U.S.C. 223.

(e) Except as otherwise authorized under this Section, a policy shall not impose any restrictions or delays on the coverage required under this Section.

Section 2-30. The Health Maintenance Organization Act is amended by changing Section 5-3 as follows:

(215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

Sec. 5-3. Insurance Code provisions.

(a) Health Maintenance Organizations shall be subject to the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3, 355b, 355c, 356g.5-1, 356m, 356q, 356v, 356w, 356x, 356y, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33, 356z.35, 356z.36, 356z.40, 356z.41, 356z.46, 356z.47, 356z.48, 356z.50, 356z.51, 256z.53, 356z.54, 356z.56, 356z.57, 356z.59, 356z.60, 364, 364.01, 364.3, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c)

of subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, XXVI, and XXXIIB of the Illinois Insurance Code.

(b) For purposes of the Illinois Insurance Code, except for Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health Maintenance Organizations in the following categories are deemed to be "domestic companies":

(1) a corporation authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act;

(2) a corporation organized under the laws of this State; or

(3) a corporation organized under the laws of another state, 30% or more of the enrollees of which are residents of this State, except a corporation subject to substantially the same requirements in its state of organization as is a "domestic company" under Article VIII 1/2 of the Illinois Insurance Code.

(c) In considering the merger, consolidation, or other acquisition of control of a Health Maintenance Organization pursuant to Article VIII 1/2 of the Illinois Insurance Code,

(1) the Director shall give primary consideration to the continuation of benefits to enrollees and the financial conditions of the acquired Health Maintenance Organization after the merger, consolidation, or other acquisition of control takes effect;

(2)(i) the criteria specified in subsection (1)(b) of Section 131.8 of the Illinois Insurance Code shall not apply and (ii) the Director, in making his determination with respect to the merger, consolidation, or other acquisition of control, need not take into account the effect on competition of the merger, consolidation, or other acquisition of control;

(3) the Director shall have the power to require the following information:

(A) certification by an independent actuary of the adequacy of the reserves of the Health Maintenance Organization sought to be acquired;

(B) pro forma financial statements reflecting the combined balance sheets of the acquiring company and the Health Maintenance Organization sought to be acquired as of the end of the preceding year and as of a date 90 days prior to the acquisition, as well as pro forma financial statements reflecting projected combined operation for a period of 2 years;

(C) a pro forma business plan detailing an acquiring party's plans with respect to the operation of the Health Maintenance Organization sought to be acquired for a period of not less than 3 years; and

(D) such other information as the Director shall require.

(d) The provisions of Article VIII 1/2 of the Illinois Insurance Code and this Section 5-3 shall apply to the sale by any health maintenance organization of greater than 10% of its enrollee population (including without limitation the health maintenance organization's right, title, and interest in and to its health care certificates).

(e) In considering any management contract or service agreement subject to Section 141.1 of the Illinois Insurance Code, the Director (i) shall, in addition to the criteria specified in Section 141.2 of the Illinois Insurance Code, take into account the effect of the management contract or service agreement on the continuation of benefits to enrollees and the financial condition of the health maintenance organization to be managed or serviced, and (ii) need not take into account the effect of the management contract or service agreement on service agreement on competition.

(f) Except for small employer groups as defined in the Small Employer Rating, Renewability and Portability Health Insurance Act and except for medicare supplement policies as defined in Section 363 of the Illinois Insurance Code, a Health Maintenance Organization may by contract agree with a group or other enrollment unit to effect refunds or charge additional premiums under the following terms and conditions:

(i) the amount of, and other terms and conditions with respect to, the refund or additional premium are set forth in the group or enrollment unit contract agreed in advance of the period for which a refund is to be paid or additional premium is to be charged (which period shall not be less than one year); and

(ii) the amount of the refund or additional premium shall not exceed 20% of the Health Maintenance Organization's profitable or unprofitable experience with respect to the group or other enrollment unit for the period (and, for purposes of a refund or additional premium, the profitable or unprofitable experience shall be calculated taking into account a pro rata share of the Health Maintenance Organization's administrative and marketing expenses, but shall not include any refund to be made or additional premium to be paid pursuant to this subsection (f)). The Health Maintenance

Organization and the group or enrollment unit may agree that the profitable or unprofitable experience may be calculated taking into account the refund period and the immediately preceding 2 plan years.

The Health Maintenance Organization shall include a statement in the evidence of coverage issued to each enrollee describing the possibility of a refund or additional premium, and upon request of any group or enrollment unit, provide to the group or enrollment unit a description of the method used to calculate (1) the Health Maintenance Organization's profitable experience with respect to the group or enrollment unit and the resulting refund to the group or enrollment unit or (2) the Health Maintenance Organization's unprofitable experience with respect to the group or enrollment unit and the resulting additional premium to be paid by the group or enrollment unit.

In no event shall the Illinois Health Maintenance Organization Guaranty Association be liable to pay any contractual obligation of an insolvent organization to pay any refund authorized under this Section.

(g) Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 101-13, eff. 6-12-19; 101-81, eff. 7-12-19; 101-281, eff. 1-1-20; 101-371, eff. 1-1-20; 101-393, eff. 1-1-20; 101-452, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-34, eff. 6-25-21; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff. 1-1-22; 102-589, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093, eff. 1-1-23; revised 12-13-22.)

Section 2-35. The Limited Health Service Organization Act is amended by changing Section 4003 as follows:

(215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

Sec. 4003. Illinois Insurance Code provisions. Limited health service organizations shall be subject to the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.37, 355.2, 355.3, 355b, 356q, 356v, 356z.10, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53 (as added by Public Act 102-804), 356z.53 (as added by Public Act 102-930), 364.3, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles IIA, VIII 1/2, XII, XIII 1/2, XIII, XIII 1/2, XIII, XIII 1/2, XIV, and XXVI of the Illinois Insurance Code. For purposes of the Illinois Insurance Code, except for Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited health service organizations in the following categories are deemed to be domestic companies:

(1) a corporation under the laws of this State; or

(2) a corporation organized under the laws of another state, 30% or more of the enrollees of which are residents of this State, except a corporation subject to substantially the same requirements in its state of organization as is a domestic company under Article VIII 1/2 of the Illinois Insurance Code.

(Source: P.A. 101-81, eff. 7-12-19; 101-281, eff. 1-1-20; 101-393, eff. 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22; 102-816, eff. 1-1-23; 102-860, eff. 1-1-23; 102-1093, eff. 1-1-23; revised 12-13-22.)

Section 2-40. The Voluntary Health Services Plans Act is amended by changing Section 10 as follows:

(215 ILCS 165/10) (from Ch. 32, par. 604)

Sec. 10. Application of Insurance Code provisions. Health services plan corporations and all persons interested therein or dealing therewith shall be subject to the provisions of Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140, 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b, 356g, 356g.5, 356g.5-1, 356q, 356r, 356t, 356u, 356w, 356w, 356w, 356z, 1356z.1, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.18, 356z.19, 356z.21, 356z.22, 356z.33, 356z.40, 356z.21, 356z.22, 356z.25, 356z.26, 356z.26, 356z.26, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33, 356z.40, 356z.41, 356z.44, 356z.47, 356z.51, 356z.51, 356z.55, 356z.56, 356z.57, 356z.59, 356z.60, 364.01, 364.3, 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of Section 367 of the Illinois Insurance Code.

[January 6, 2023]

Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 101-13, eff. 6-12-19; 101-81, eff. 7-12-19; 101-281, eff. 1-1-20; 101-393, eff. 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093, eff. 1-1-23; revised 12-13-22.)

Section 2-45. The Illinois Public Aid Code is amended by changing Section 5-16.8 as follows: (305 ILCS 5/5-16.8)

Sec. 5-16.8. Required health benefits. The medical assistance program shall (i) provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356q, 356u, 356w, 356x, 356z.6, 356z.26, 356z.29, 356z.32, 356z.33, 356z.34, 356z.35, 356z.46, 356z.47, and 356z.51, and 356z.53, 356z.56, 356z.59, and 356z.60 of the Illinois Insurance Code, (ii) be subject to the provisions of Sections 356z.19, 356z.44, 356z.49, 364.01, 370c, and 370c.1 of the Illinois Insurance Code, and (iii) be subject to the provisions of subsection (d-5) of Section 10 of the Network Adequacy and Transparency Act.

The Department, by rule, shall adopt a model similar to the requirements of Section 356z.39 of the Illinois Insurance Code.

On and after July 1, 2012, the Department shall reduce any rate of reimbursement for services or other payments or alter any methodologies authorized by this Code to reduce any rate of reimbursement for services or other payments in accordance with Section 5-5e.

To ensure full access to the benefits set forth in this Section, on and after January 1, 2016, the Department shall ensure that provider and hospital reimbursement for post-mastectomy care benefits required under this Section are no lower than the Medicare reimbursement rate.

(Source: P.A. 101-81, eff. 7-12-19; 101-218, eff. 1-1-20; 101-281, eff. 1-1-20; 101-371, eff. 1-1-20; 101-574, eff. 1-1-20; 101-649, eff. 7-7-20; 102-30, eff. 1-1-22; 102-144, eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-530, eff. 1-1-22; 102-642, eff. 1-1-22; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-1093, eff. 1-1-23; revised 12-14-22.)

Article 3

Section 3-5. The Birth Center Licensing Act is amended by changing Section 5 as follows: (210 ILCS 170/5) Sec. 5. Definitions.

(a) In this Act:

"Birth center" means a designated site, other than a hospital:

(1) in which births are planned to occur following a normal, uncomplicated, and low-risk pregnancy;

(2) that is not the pregnant person's usual place of residence;

(3) that is exclusively dedicated to serving the childbirth-related needs of pregnant persons and their newborns, and has no more than 10 beds;

(4) that offers prenatal care and community education services and coordinates these services with other health care services available in the community; and

(5) that does not provide general anesthesia or surgery.

"Certified nurse midwife" means an advanced practice registered nurse licensed in Illinois under the Nurse Practice Act with full practice authority or who is delegated such authority as part of a written collaborative agreement with a physician who is associated with the birthing center or who has privileges at a nearby birthing hospital.

"Department" means the Illinois Department of Public Health.

"Hospital" does not include places where pregnant females are received, cared for, or treated during delivery if it is in a licensed birth center, nor include any facility required to be licensed as a birth center.

"Licensed certified professional midwife" means a person who has successfully met the requirements under Section 45 of the Licensed Certified Professional Midwife Practice Act and holds an active license to practice as a licensed certified professional midwife in Illinois.

"Physician" means a physician licensed to practice medicine in all its branches in Illinois.

"Reproductive health care" means health care offered, arranged, or furnished for the purpose of preventing pregnancy, terminating a pregnancy, managing pregnancy loss, or improving maternal health and birth outcomes. "Reproductive health care" includes but is not limited to: contraception; sterilization; preconception care; maternity care; assisted reproduction; abortion care; and counseling regarding reproductive health care.

(b) Nothing in this Section shall be construed to prohibit a facility licensed as a birth center from offering other sexual health care or reproductive health care subject to any applicable laws, rules, regulations, or licensing requirements for those services.

(Source: P.A. 102-518, eff. 8-20-21; 102-964, eff. 1-1-23.)

Article 5

Section 5-5. The Pharmacy Practice Act is amended by changing Section 43 as follows: (225 ILCS 85/43)

(Section scheduled to be repealed on January 1, 2028)

Sec. 43. Dispensation of hormonal contraceptives.

(a) The dispensing of hormonal contraceptives to a patient shall be pursuant to a valid prescription or standing order by a physician licensed to practice medicine in all its branches, a standing order by or the medical director of a local health department, <u>or a standing order by the Department of Public Health</u> pursuant to the following:

(1) a pharmacist may dispense no more than a 12-month supply of hormonal contraceptives to a patient;

(2) a pharmacist must complete an educational training program accredited by the Accreditation Council for Pharmacy Education and approved by the Department that is related to the patient self-screening risk assessment, patient assessment contraceptive counseling and education, and dispensation of hormonal contraceptives;

(3) a pharmacist shall have the patient complete the self-screening risk assessment tool; the self-screening risk assessment tool is to be based on the most current version of the United States Medical Eligibility Criteria for Contraceptive Use published by the federal Centers for Disease Control and Prevention;

(4) based upon the results of the self-screening risk assessment and the patient assessment, the pharmacist shall use his or her professional and clinical judgment as to when a patient should be referred to the patient's physician or another health care provider;

(5) a pharmacist shall provide, during the patient assessment and consultation, counseling and education about all methods of contraception, including methods not covered under the standing order, and their proper use and effectiveness;

(6) the patient consultation shall take place in a private manner; and

(7) a pharmacist and pharmacy must maintain appropriate records.

(b) The Department may adopt rules to implement this Section.

(c) Nothing in this Section shall be interpreted to require a pharmacist to dispense hormonal contraception under a standing order issued by a physician licensed to practice medicine in all its branches or the medical director of a local health department.

(d) Notwithstanding any other provision of law to the contrary, a pharmacist may dispense hormonal contraceptives in conformance with standing orders issued pursuant to this Section without prior establishment of a relationship between the pharmacist and the person receiving hormonal contraception.

(c) No employee of the Department of Public Health issuing a standing order pursuant to this Section shall, as a result of the employee's acts or omissions in issuing the standing order pursuant to this Section, be subject to (i) any disciplinary or other adverse action under the Medical Practice Act of 1987, (ii) any civil liability, or (iii) any criminal liability.

(Source: P.A. 102-103, eff. 1-1-22; 102-813, eff. 5-13-22.)

Section 6-5. The Criminal Identification Act is amended by changing Section 3.2 as follows:

(20 ILCS 2630/3.2) (from Ch. 38, par. 206-3.2)

Sec. 3.2. (a) It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction upon the application for treatment of a person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:

(1) any injury resulting from the discharge of a firearm; or

(2) any injury sustained in the commission of or as a victim of a criminal offense.

Any hospital, physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this Section.

(b) Notwithstanding subsection (a), nothing in this Section shall be construed to require the reporting of lawful health care activity, whether such activity may constitute a violation of another state's law.

(c) As used in this Section:

"Gender-affirming health care" includes, but is not limited to, all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature relating to the treatment of gender dysphoria or the affirmation of an individual's gender identity or gender expression.

"Lawful health care" means "reproductive health care" as defined in Section 1-10 of the Reproductive Health Act, or gender-affirming health care that is not unlawful under the laws of this State, including on any theory of vicarious, joint, several, or conspiracy liability."

"Lawful health care activity" means seeking, providing, receiving, assisting in seeking, providing, or receiving, providing material support for, or traveling to obtain lawful health care.

(Source: P.A. 86-1475.)

Section 6-10. The Wrongful Death Act is amended by changing Section 2.2 as follows:

(740 ILCS 180/2.2) (from Ch. 70, par. 2.2)

Sec. 2.2. The state of gestation or development of a human being when an injury is caused, when an injury takes effect, or at death, shall not foreclose maintenance of any cause of action under the law of this State arising from the death of a human being caused by wrongful act, neglect or default.

There shall be no cause of action against any person a physician or a medical institution for the wrongful death of a fetus caused by an abortion where the abortion was permitted by law and the requisite consent was lawfully given. Provided, however, that a cause of action is not prohibited where the fetus is live-born but subsequently dies.

There shall be no cause of action against a physician or a medical institution for the wrongful death of a fetus based on the alleged misconduct of the physician or medical institution where the defendant did not know and, under the applicable standard of good medical care, had no medical reason to know of the pregnancy of the mother of the fetus.

(Source: P.A. 81-946.)

Article 7

Section 7-5. The Illinois Parentage Act of 2015 is amended by changing Sections 704 and 709 as follows:

(750 ILCS 46/704)

Sec. 704. Withdrawal of consent of intended parent or donor. An intended parent or donor may withdraw consent to use his or her gametes in a writing or legal pleading with notice to the other participants. An intended parent who withdraws consent under this Section prior to the insemination or embryo transfer is not a parent of any resulting child. If a donor withdraws consent to his or her donation prior to the insemination or the combination of gametes, the intended parent is not the parent of any resulting child. If the intended parent or parents no longer wish to use any remaining cryopreserved fertilized ovum for medical purposes, the terms of the most recent informed consent of the intended parent or parents executed at the fertility center or a marital settlement agreement under a judgment of dissolution of marriage, judgment of legal separation, or judgment of dissolution of civil union governs the disposition of the fertilized ovum.

(Source: P.A. 99-763, eff. 1-1-17.)

(750 ILCS 46/709)

Sec. 709. Establishment of parentage; requirements of Gestational Surrogacy Act.

(a) In the event of gestational surrogacy, in addition to the requirements of the Gestational Surrogacy Act, a parent-child relationship is established between a person and a child if all of the following conditions are met prior to the birth of the child:

(1) The gestational surrogate certifies that she did not provide a gamete for the child, and that she is carrying the child for the intended parents.

(2) The spouse, if any, of the gestational surrogate certifies that he or she did not provide a gamete for the child.

(3) Each intended parent, or the parent's legally authorized designee if an intended parent dies, certifies that the child being carried by the gestational surrogate was conceived using at least one of the intended parents' gametes.

(4) A physician licensed in the state in which the fertilized ovum was inseminated or transferred to the gestational surrogate certifies that the child being carried by the gestational surrogate was conceived using the gamete or gametes of at least one of the intended parents, and that neither the gestational surrogate nor the gestational surrogate's spouse, if any, provided gametes for the child being carried by the gestational surrogate.

(5) The attorneys for the intended parents and the gestational surrogate each certify that the parties entered into a gestational surrogacy agreement intended to satisfy the requirements of the Gestational Surrogacy Act.

(b) All certifications under this Section shall be in writing and witnessed by 2 competent adults who are not the gestational surrogate, gestational surrogate's spouse, if any, or an intended parent. Certifications shall be on forms prescribed by the Illinois Department of Public Health and shall be executed prior to the birth of the child. All certifications shall be provided, prior to the birth of the child, to both the hospital where the gestational surrogate anticipates the delivery will occur and to the Illinois Department of Public Health.

(c) Parentage established in accordance with this Section has the full force and effect of a judgment entered under this Act.

(d) The Illinois Department of Public Health shall adopt rules to implement this Section. (Source: P.A. 99-763, eff. 1-1-17.)

Article 8

Section 8-5. The Reproductive Health Act is amended by changing Sections 1-10, 1-20, and 1-25 as follows:

(775 ILCS 55/1-10)

Sec. 1-10. Definitions. As used in this Act:

"Abortion" means the use of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of an individual known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

"Advanced practice registered nurse" has the same meaning as it does in Section 50-10 of the Nurse Practice Act.

"Assisted reproduction" means a method of achieving a pregnancy through the handling of human oocytes, sperm, zygotes, or embryos for the purpose of establishing a pregnancy. "Assisted reproduction" includes, but is not limited to: methods of artificial insemination; in vitro fertilization; embryo transfer; zygote transfer; embryo biopsy; preimplantation genetic diagnosis; embryo cryopreservation; oocyte, gamete, zygote, and embryo donation; and gestational surrogacy.

"Department" means the Illinois Department of Public Health.

"Fetal viability" means that, in the professional judgment of the attending health care professional, based on the particular facts of the case, there is a significant likelihood of a fetus' sustained survival outside the uterus without the application of extraordinary medical measures.

"Health care professional" means a person who is licensed as a physician, advanced practice registered nurse, or physician assistant.

"Health of the patient" means all factors that are relevant to the patient's health and well-being, including, but not limited to, physical, emotional, psychological, and familial health and age.

"Maternity care" means the health care provided in relation to pregnancy, labor and childbirth, and the postpartum period, and includes prenatal care, care during labor and birthing, and postpartum care extending through one-year postpartum. Maternity care shall, seek to optimize positive outcomes for the patient, and be provided on the basis of the physical and psychosocial needs of the patient. Notwithstanding any of the above, all care shall be subject to the informed and voluntary consent of the patient, or the patient's legal proxy, when the patient is unable to give consent.

"Physician" means any person licensed to practice medicine in all its branches under the Medical Practice Act of 1987.

"Physician assistant" has the same meaning as it does in Section 4 of the Physician Assistant Practice Act of 1987.

"Pregnancy" means the human reproductive process, beginning with the implantation of an embryo.

"Prevailing party" has the same meaning as in the Illinois Civil Rights Act of 2003.

"Reproductive health care" means health care offered, arranged, or furnished for the purpose of preventing pregnancy, terminating a pregnancy, managing pregnancy loss, or improving maternal health and birth outcomes. "Reproductive health care" includes, but is not limited to: contraception; sterilization; preconception care; assisted reproduction; maternity care; abortion care; and counseling regarding reproductive health care.

"State" includes any branch, department, agency, instrumentality, and official or other person acting under color of law of this State or a political subdivision of the State, including any unit of local government (including a home rule unit), school district, instrumentality, or public subdivision.

(Source: P.A. 101-13, eff. 6-12-19.)

(775 ILCS 55/1-20)

Sec. 1-20. Prohibited State actions; causes of action.

(a) The State shall not:

(1) deny, restrict, interfere with, or discriminate against an individual's exercise of the fundamental rights set forth in this Act, including individuals under State custody, control, or supervision; or

(2) prosecute, punish, or otherwise deprive any individual of the individual's rights for any act or failure to act during the individual's own pregnancy, if the predominant basis for such prosecution, punishment, or deprivation of rights is the potential, actual, or perceived impact on the pregnancy or its outcomes or on the pregnant individual's own health.

(b) Any party aggrieved by conduct or regulation in violation of this Act may bring a civil lawsuit, in a federal district court or State circuit court, against the offending unit of government. Any State claim brought in federal district court shall be a supplemental claim to a federal claim. <u>Any lawsuit brought</u> pursuant to this Act shall be commenced within 2 years after the cause of action was discovered.

(c) Upon motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in any action brought pursuant to this Section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(Source: P.A. 101-13, eff. 6-12-19.)

(775 ILCS 55/1-25)

Sec. 1-25. Reporting of abortions performed by health care professionals.

(a) A health care professional may provide abortion care in accordance with the health care professional's professional judgment and training and based on accepted standards of clinical practice consistent with the scope of his or her practice under the Medical Practice Act of 1987, the Nurse Practice Act, or the Physician Assistant Practice Act of 1987. <u>An advanced practice registered nurse or physician assistant as defined in this Act may perform aspiration abortion procedures that do not require general anesthesia, consistent with the advanced practice registered nurse's or physician assistant's training and standards of clinical practice and, if applicable, consistent with any collaborative agreement. If the health care professional determines that there is fetal viability, the health care professional may provide abortion care only if, in the professional judgment of the health care professional, the abortion is necessary to protect the life or health of the patient.</u>

(b) A report of each abortion performed by a health care professional shall be made to the Department on forms prescribed by it. Such reports shall be transmitted to the Department not later than 10 days following the end of the month in which the abortion is performed. (c) The abortion reporting forms prescribed by the Department shall not request or require information that identifies a patient by name or any other identifying information, and the Department shall secure anonymity of all patients and health care professionals.

(d) All reports received by the Department pursuant to this Section shall be treated as confidential and exempt from the Freedom of Information Act. Access to such reports shall be limited to authorized Department staff who shall use the reports for statistical purposes only. Such reports must be destroyed within 2 years after date of receipt.

(Source: P.A. 101-13, eff. 6-12-19.)

Article 9

Section 9-5. The Medical Practice Act of 1987 is amended by changing Sections 22 and 23 as follows:

(225 ILCS 60/22) (from Ch. 111, par. 4400-22)

(Section scheduled to be repealed on January 1, 2027)

Sec. 22. Disciplinary action.

(A) The Department may revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action as the Department may deem proper with regard to the license or permit of any person issued under this Act, including imposing fines not to exceed \$10,000 for each violation, upon any of the following grounds:

(1) (Blank).

(2) (Blank).

(3) A plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States of any crime that is a felony.

(4) Gross negligence in practice under this Act.

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

(6) Obtaining any fee by fraud, deceit, or misrepresentation.

(7) Habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, or of any other substances which results in the inability to practice with reasonable judgment, skill, or safety.

(8) Practicing under a false or, except as provided by law, an assumed name.

(9) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(10) Making a false or misleading statement regarding their skill or the efficacy or value of the medicine, treatment, or remedy prescribed by them at their direction in the treatment of any disease or other condition of the body or mind.

(11) Allowing another person or organization to use their license, procured under this Act, to practice.

(12) Adverse action taken by another state or jurisdiction against a license or other authorization to practice as a medical doctor, doctor of osteopathy, doctor of osteopathic medicine or doctor of chiropractic, a certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof. This includes any adverse action taken by a State or federal agency that prohibits a medical doctor, doctor of osteopathy, doctor of osteopathic medicine, or doctor of chiropractic from providing services to the agency's participants.

(13) Violation of any provision of this Act or of the Medical Practice Act prior to the repeal of that Act, or violation of the rules, or a final administrative action of the Secretary, after consideration of the recommendation of the Medical Board.

(14) Violation of the prohibition against fee splitting in Section 22.2 of this Act.

(15) A finding by the Medical Board that the registrant after having his or her license placed on probationary status or subjected to conditions or restrictions violated the terms of the probation or failed to comply with such terms or conditions.

(16) Abandonment of a patient.

(17) Prescribing, selling, administering, distributing, giving, or self-administering any drug classified as a controlled substance (designated product) or narcotic for other than medically accepted therapeutic purposes.

(18) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in such manner as to exploit the patient for financial gain of the physician.

(19) Offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any human condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the Department.

(20) Immoral conduct in the commission of any act including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice.

(21) Willfully making or filing false records or reports in his or her practice as a physician, including, but not limited to, false records to support claims against the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(22) Willful omission to file or record, or willfully impeding the filing or recording, or inducing another person to omit to file or record, medical reports as required by law, or willfully failing to report an instance of suspected abuse or neglect as required by law.

(23) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(24) Solicitation of professional patronage by any corporation, agents or persons, or profiting from those representing themselves to be agents of the licensee.

(25) Gross and willful and continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered, including, but not limited to, filing such false statements for collection of monies for services not rendered from the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(26) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

(27) Mental illness or disability which results in the inability to practice under this Act with reasonable judgment, skill, or safety.

(28) Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in a physician's inability to practice under this Act with reasonable judgment, skill, or safety.

(29) Cheating on or attempting to subvert the licensing examinations administered under this Act.

(30) Willfully or negligently violating the confidentiality between physician and patient except as required by law.

(31) The use of any false, fraudulent, or deceptive statement in any document connected with practice under this Act.

(32) Aiding and abetting an individual not licensed under this Act in the practice of a profession licensed under this Act.

(33) Violating state or federal laws or regulations relating to controlled substances, legend drugs, or ephedra as defined in the Ephedra Prohibition Act.

(34) Failure to report to the Department any adverse final action taken against them by another licensing jurisdiction (any other state or any territory of the United States or any foreign state or country), by any peer review body, by any health care institution, by any professional society or association related to practice under this Act, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(35) Failure to report to the Department surrender of a license or authorization to practice as a medical doctor, a doctor of osteopathy, a doctor of osteopathic medicine, or doctor of chiropractic in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society, while under disciplinary investigation by any of those authorities or bodies, for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(36) Failure to report to the Department any adverse judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(37) Failure to provide copies of medical records as required by law.

(38) Failure to furnish the Department, its investigators or representatives, relevant information, legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator.

(39) Violating the Health Care Worker Self-Referral Act.

(40) (Blank). Willful failure to provide notice when notice is required under the Parental Notice of Abortion Act of 1995.

(41) Failure to establish and maintain records of patient care and treatment as required by this law.

(42) Entering into an excessive number of written collaborative agreements with licensed advanced practice registered nurses resulting in an inability to adequately collaborate.

(43) Repeated failure to adequately collaborate with a licensed advanced practice registered nurse.

(44) Violating the Compassionate Use of Medical Cannabis Program Act.

(45) Entering into an excessive number of written collaborative agreements with licensed prescribing psychologists resulting in an inability to adequately collaborate.

(46) Repeated failure to adequately collaborate with a licensed prescribing psychologist.

(47) Willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act.

(48) Being named as an abuser in a verified report by the Department on Aging under the Adult Protective Services Act, and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.

(49) Entering into an excessive number of written collaborative agreements with licensed physician assistants resulting in an inability to adequately collaborate.

(50) Repeated failure to adequately collaborate with a physician assistant.

Except for actions involving the ground numbered (26), all proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 years next after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described herein. Except for the grounds numbered (8), (9), (26), and (29), no action shall be commenced more than 10 years after the date of the incident or act alleged to have violated this Section. For actions involving the ground numbered (26), a pattern of practice or other behavior includes all incidents alleged to be part of the pattern of practice or other behavior that occurred, or a report pursuant to Section 23 of this Act received, within the 10-year period preceding the filing of the complaint. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action, or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an additional period of 2 years from the date of notification to the Department under Section 23 of this Act of such settlement or final judgment in which to investigate and commence formal disciplinary proceedings under Section 36 of this Act, except as otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

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

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

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

(a) when a person will be deemed sufficiently rehabilitated to warrant the public trust;

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

(c) what constitutes immoral conduct in the commission of any act, including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice; and

(d) what constitutes gross negligence in the practice of medicine.

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

In enforcing this Section, the Medical Board, upon a showing of a possible violation, may compel any individual who is licensed to practice under this Act or holds a permit to practice under this Act, or any individual who has applied for licensure or a permit pursuant to this Act, to submit to a mental or physical examination and evaluation, or both, which may include a substance abuse or sexual offender evaluation, as required by the Medical Board and at the expense of the Department. The Medical Board shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination and evaluation, or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed chiropractic physicians, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination and evaluation pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing, or neuropsychological testing. The Medical Board or the Department may order the examining physician or any member of the multidisciplinary team to provide to the Department or the Medical Board any and all records, including business records, that relate to the examination and evaluation, including any supplemental testing performed. The Medical Board or the Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning this examination and evaluation of the licensee, permit holder, or applicant, including testimony concerning any supplemental testing or documents relating to the examination and evaluation. No information, report, record, or other documents in any way related to the examination and evaluation shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee, permit holder, or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee, permit holder, or applicant ordered to undergo an evaluation and examination for the examining physician or any member of the multidisciplinary team to provide information, reports, records, or other documents or to provide any testimony regarding the examination and evaluation. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination and evaluation, or both, when directed, shall result in an automatic suspension, without hearing, until such time as the individual submits to the examination. If the Medical Board finds a physician unable to practice following an examination and evaluation because of the reasons set forth in this Section, the Medical Board shall require such physician to submit to care, counseling, or treatment by physicians, or other health care professionals, approved or designated by the Medical Board, as a condition for issued, continued, reinstated, or renewed licensure to practice. Any physician, whose license was granted pursuant to Sections 9, 17, or 19 of this Act, or, continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions, or restrictions who shall fail to comply with such terms, conditions, or restrictions, or to complete a required program of care, counseling, or treatment, as determined by the Chief Medical Coordinator or Deputy Medical Coordinators, shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately. pending a hearing by the Medical Board. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Medical Board within 15 days after such suspension and completed without appreciable delay. The Medical Board shall have the authority to review the subject physician's record of treatment and counseling regarding the impairment, to

the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

The Department may promulgate rules for the imposition of fines in disciplinary cases, not to exceed \$10,000 for each violation of this Act. Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury to a patient. Any funds collected from such fines shall be deposited in the Illinois State Medical Disciplinary Fund.

All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine or in accordance with the terms set forth in the order imposing the fine.

(B) The Department shall revoke the license or permit issued under this Act to practice medicine or a chiropractic physician who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or permit is revoked under this subsection B shall be prohibited from practicing medicine or treating human ailments without the use of drugs and without operative surgery.

(C) The Department shall not revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice medicine to a physician:

(1) based solely upon the recommendation of the physician to an eligible patient regarding, or prescription for, or treatment with, an investigational drug, biological product, or device; or

(2) for experimental treatment for Lyme disease or other tick-borne diseases, including, but not limited to, the prescription of or treatment with long-term antibiotics;

(3) based solely upon the physician providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state; or

(4) based upon the physician's license being revoked or suspended, or the physician being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the physician violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the physician if it occurred in Illinois.

(D) (Blank). The Medical Board shall recommend to the Department civil penalties and any other appropriate discipline in disciplinary cases when the Medical Board finds that a physician willfully performed an abortion with actual knowledge that the person upon whom the abortion has been performed is a minor or an incompetent person without notice as required under the Parental Notice of Abortion Act of 1995. Upon the Medical Board's recommendation, the Department shall impose, for the first violation, a civil penalty of \$1,000 and for a second or subsequent violation, a civil penalty of \$5,000.

(D) The conduct specified in subsection (C) shall not trigger reporting requirements under Section 23, constitute grounds for suspension under Section 25, or be included on the physician's profile required under Section 10 of the Patients' Right to Know Act.

(E) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having provided, authorized, recommended, aided, assisted, referred for, or otherwise participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(F) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 101-13, eff. 6-12-19; 101-81, eff. 7-12-19; 101-363, eff. 8-9-19; 102-20, eff. 1-1-22; 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

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[January 6, 2023]

(1) Health care institutions. The chief administrator or executive officer of any health care institution licensed by the Illinois Department of Public Health shall report to the Medical Board when any person's clinical privileges are terminated or are restricted based on a final determination made in accordance with that institution's by-laws or rules and regulations that a person has either committed an act or acts which may directly threaten patient care or that a person may have a mental or physical disability that may endanger patients under that person's care. Such officer also shall report if a person accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon conduct related directly to patient care or in lieu of formal action seeking to determine whether a person may have a mental or physical disability that may endanger patients under that person's care. The Medical Board shall, by rule, provide for the reporting to it by health care institutions of all instances in which a person, licensed under this Act, who is impaired by reason of age, drug or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, is in a program of rehabilitation. Such reports shall be strictly confidential and may be reviewed and considered only by the members of the Medical Board, or by authorized staff as provided by rules of the Medical Board. Provisions shall be made for the periodic report of the status of any such person not less than twice annually in order that the Medical Board shall have current information upon which to determine the status of any such person. Such initial and periodic reports of impaired physicians shall not be considered records within the meaning of the State Records Act and shall be disposed of, following a determination by the Medical Board that such reports are no longer required, in a manner and at such time as the Medical Board shall determine by rule. The filing of such reports shall be construed as the filing of a report for purposes of subsection (C) of this Section. Such health care institution shall not take any adverse action, including, but not limited to, restricting or terminating of any person's clinical privileges, as a result of an adverse action against the person's license or clinical privileges or other disciplinary action by another state or health care institution that resulted from the person's provision of, authorization of, recommendation of, aiding or assistance with, referral for, or participation in any health care service if the adverse action was based solely on a violation of the other state's law prohibiting the provision of such health care and related services in the state or for a resident of the state if that health care service as provided would have been lawful and consistent with the standards of conduct for physicians if it occurred in Illinois.

(1.5) Clinical training programs. The program director of any post-graduate clinical training program shall report to the Medical Board if a person engaged in a post-graduate clinical training program at the institution, including, but not limited to, a residency or fellowship, separates from the program for any reason prior to its conclusion. The program director shall provide all documentation relating to the separation if, after review of the report, the Medical Board determines that a review of those documents is necessary to determine whether a violation of this Act occurred.

(2) Professional associations. The President or chief executive officer of any association or society, of persons licensed under this Act, operating within this State shall report to the Medical Board when the association or society renders a final determination that a person has committed unprofessional conduct related directly to patient care or that a person may have a mental or physical disability that may endanger patients under that person's care.

(3) Professional liability insurers. Every insurance company which offers policies of professional liability insurance to persons licensed under this Act, or any other entity which seeks to indemnify the professional liability of a person licensed under this Act, shall report to the Medical Board the settlement of any claim or cause of action, or final judgment rendered in any cause of action, which alleged negligence in the furnishing of medical care by such licensed person when such settlement or final judgment is in favor of the plaintiff. Such insurance company shall not take any adverse action, including, but not limited to, denial or revocation of coverage, or rate increases, against a person licensed under this Act with respect to coverage for services provided in Illinois if based solely on the person providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in health care services this State in violation of another state's law, or a revocation or other adverse action against the person's license in another state for violation of such law if that health care service as provided would have been lawful and consistent with the standards of

conduct for physicians if it occurred in Illinois. Notwithstanding this provision, it is against public policy to require coverage for an illegal action.

(4) State's Attorneys. The State's Attorney of each county shall report to the Medical Board, within 5 days, any instances in which a person licensed under this Act is convicted of any felony or Class A misdemeanor. The State's Attorney of each county may report to the Medical Board through a verified complaint any instance in which the State's Attorney believes that a physician has willfully violated the notice requirements of the Parental Notice of Abortion Act of 1995.

(5) State agencies. All agencies, boards, commissions, departments, or other instrumentalities of the government of the State of Illinois shall report to the Medical Board any instance arising in connection with the operations of such agency, including the administration of any law by such agency, in which a person licensed under this Act has either committed an act or acts which may be a violation of this Act or which may constitute unprofessional conduct related directly to patient care or which indicates that a person licensed under this Act may have a mental or physical disability that may endanger patients under that person's care.

(B) Mandatory reporting. All reports required by items (34), (35), and (36) of subsection (A) of Section 22 and by Section 23 shall be submitted to the Medical Board in a timely fashion. Unless otherwise provided in this Section, the reports shall be filed in writing within 60 days after a determination that a report is required under this Act. All reports shall contain the following information:

(1) The name, address and telephone number of the person making the report.

(2) The name, address and telephone number of the person who is the subject of the report.

(3) The name and date of birth of any patient or patients whose treatment is a subject of the report, if available, or other means of identification if such information is not available, identification of the hospital or other healthcare facility where the care at issue in the report was rendered, provided, however, no medical records may be revealed.

(4) A brief description of the facts which gave rise to the issuance of the report, including the dates of any occurrences deemed to necessitate the filing of the report.

(5) If court action is involved, the identity of the court in which the action is filed, along with the docket number and date of filing of the action.

(6) Any further pertinent information which the reporting party deems to be an aid in the evaluation of the report.

The Medical Board or Department may also exercise the power under Section 38 of this Act to subpoena copies of hospital or medical records in mandatory report cases alleging death or permanent bodily injury. Appropriate rules shall be adopted by the Department with the approval of the Medical Board.

When the Department has received written reports concerning incidents required to be reported in items (34), (35), and (36) of subsection (A) of Section 22, the licensee's failure to report the incident to the Department under those items shall not be the sole grounds for disciplinary action.

Nothing contained in this Section shall act to, in any way, waive or modify the confidentiality of medical reports and committee reports to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Medical Board, the Medical Coordinators, the Medical Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act, and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation or to a health care licensing body or medical licensing authority of this State or another state or jurisdiction pursuant to an official request made by that licensing body or medical licensing authority. Furthermore, information and documents disclosed to a federal, State, or local law enforcement agency only for the investigation and prosecution of a criminal offense, or, in the case of disclosure to a health care licensing body or medical licensing authority, only for investigations and disciplinary action proceedings with regard to a license. Information and documents disclosed to the Department of Public Health may be used by that Department only for investigation and disciplinary action regarding the license of a health care institution licensed by the Department of Public Health.

(C) Immunity from prosecution. Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Medical Board or a peer review committee, or assisting in the investigation or preparation of such information, or by voluntarily reporting to the Medical Board or a peer review committee information regarding alleged errors or negligence by a person licensed under this Act, or by participating in proceedings

of the Medical Board or a peer review committee, or by serving as a member of the Medical Board or a peer review committee, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(D) Indemnification. Members of the Medical Board, the Medical Coordinators, the Medical Board's attorneys, the medical investigative staff, physicians retained under contract to assist and advise the medical coordinators in the investigation, and authorized clerical staff shall be indemnified by the State for any actions occurring within the scope of services on the Medical Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

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

The member must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Medical Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(E) Deliberations of Medical Board. Upon the receipt of any report called for by this Act, other than those reports of impaired persons licensed under this Act required pursuant to the rules of the Medical Board, the Medical Board shall notify in writing, by mail or email, the person who is the subject of the report. Such notification shall be made within 30 days of receipt by the Medical Board of the report.

The notification shall include a written notice setting forth the person's right to examine the report. Included in such notification shall be the address at which the file is maintained, the name of the custodian of the reports, and the telephone number at which the custodian may be reached. The person who is the subject of the report shall submit a written statement responding, clarifying, adding to, or proposing the amending of the report previously filed. The person who is the subject of the report shall also submit with the written statement any medical records related to the report. The statement and accompanying medical records shall become a permanent part of the file and must be received by the Medical Board no more than 30 days after the date on which the person was notified by the Medical Board of the existence of the original report.

The Medical Board shall review all reports received by it, together with any supporting information and responding statements submitted by persons who are the subject of reports. The review by the Medical Board shall be in a timely manner but in no event, shall the Medical Board's initial review of the material contained in each disciplinary file be less than 61 days nor more than 180 days after the receipt of the initial report by the Medical Board.

When the Medical Board makes its initial review of the materials contained within its disciplinary files, the Medical Board shall, in writing, make a determination as to whether there are sufficient facts to warrant further investigation or action. Failure to make such determination within the time provided shall be deemed to be a determination that there are not sufficient facts to warrant further investigation or action.

Should the Medical Board find that there are not sufficient facts to warrant further investigation, or action, the report shall be accepted for filing and the matter shall be deemed closed and so reported to the Secretary. The Secretary shall then have 30 days to accept the Medical Board's decision or request further investigation. The Secretary shall inform the Medical Board of the decision to request further investigation, including the specific reasons for the decision. The individual or entity filing the original report or complaint and the person who is the subject of the report or complaint shall be notified in writing by the Secretary of any final action on their report or complaint. The Department shall disclose to the individual or entity who filed the original report or complaint, on request, the status of the Medical Board's review of a specific report or complaint. Such request may be made at any time, including prior to the Medical Board's determination as to whether there are sufficient facts to warrant further investigation or action.

(F) Summary reports. The Medical Board shall prepare, on a timely basis, but in no event less than once every other month, a summary report of final disciplinary actions taken upon disciplinary files maintained by the Medical Board. The summary reports shall be made available to the public upon request and payment of the fees set by the Department. This publication may be made available to the public on the Department's website. Information or documentation relating to any disciplinary file that is closed without disciplinary action taken shall not be disclosed and shall be afforded the same status as is provided by Part 21 of Article VIII of the Code of Civil Procedure.

(G) Any violation of this Section shall be a Class A misdemeanor.

(H) If any such person violates the provisions of this Section an action may be brought in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, for an order enjoining such violation or for an order enforcing compliance with this Section. Upon filing of a verified petition in such court, the court may issue a temporary restraining order without notice or bond and may preliminarily or permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this paragraph shall be in addition to, and not in lieu of, all other remedies and penalties provided for by this Section.

(I) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 102-20, eff. 1-1-22; 102-687, eff. 12-17-21.)

Section 9-10. The Nurse Practice Act is amended by changing Sections 65-65 and 70-5 as follows: (225 ILCS 65/65-65) (was 225 ILCS 65/15-55)

(Section scheduled to be repealed on January 1, 2028)

Sec. 65-65. Reports relating to APRN professional conduct and capacity.

(a) Entities Required to Report.

(1) Health Care Institutions. The chief administrator or executive officer of a health care institution licensed by the Department of Public Health, which provides the minimum due process set forth in Section 10.4 of the Hospital Licensing Act, shall report to the Board when an advanced practice registered nurse's organized professional staff clinical privileges are terminated or are restricted based on a final determination, in accordance with that institution's bylaws or rules and regulations, that (i) a person has either committed an act or acts that may directly threaten patient care and that are not of an administrative nature or (ii) that a person may have a mental or physical disability that may endanger patients under that person's care. The chief administrator or officer shall also report if an advanced practice registered nurse accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon conduct related directly to patient care and not of an administrative nature, or in lieu of formal action seeking to determine whether a person may have a mental or physical disability that may endanger patients under that person's care. The Department shall provide by rule for the reporting to it of all instances in which a person licensed under this Article, who is impaired by reason of age, drug, or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, is in a program of rehabilitation. Reports submitted under this subsection shall be strictly confidential and may be reviewed and considered only by the members of the Board or authorized staff as provided by rule of the Department. Provisions shall be made for the periodic report of the status of any such reported person not less than twice annually in order that the Board shall have current information upon which to determine the status of that person. Initial and periodic reports of impaired advanced practice registered nurses shall not be considered records within the meaning of the State Records Act and shall be disposed of, following a determination by the Board that such reports are no longer required, in a manner and at an appropriate time as the Board shall determine by rule. The filing of reports submitted under this subsection shall be construed as the filing of a report for purposes of subsection (c) of this Section.

(2) Professional Associations. The President or chief executive officer of an association or society of persons licensed under this Article, operating within this State, shall report to the Board when the association or society renders a final determination that a person licensed under this Article has committed unprofessional conduct related directly to patient care or that a person may have a mental or physical disability that may endanger patients under the person's care.

(3) Professional Liability Insurers. Every insurance company that offers policies of professional liability insurance to persons licensed under this Article, or any other entity that seeks to indemnify the professional liability of a person licensed under this Article, shall report to the Board the settlement of any claim or cause of action, or final judgment rendered in any cause of action, that alleged negligence in the furnishing of patient care by the licensee when the settlement or final judgment is in favor of the plaintiff. Such insurance company shall not take any adverse action, including, but not limited to, denial or revocation of coverage, or rate increases, against a person

licensed under this Act with respect to coverage for services provided in Illinois if based solely on the person providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in health care services this State in violation of another state's law, or a revocation or other adverse action against the person's license in another state for violation of such law if that health care service as provided would have been lawful and consistent with the standards of conduct for physicians if it occurred in Illinois. Notwithstanding this provision, it is against public policy to require coverage for an illegal action.

(4) State's Attorneys. The State's Attorney of each county shall report to the Board all instances in which a person licensed under this Article is convicted or otherwise found guilty of the commission of a felony.

(5) State Agencies. All agencies, boards, commissions, departments, or other instrumentalities of the government of this State shall report to the Board any instance arising in connection with the operations of the agency, including the administration of any law by the agency, in which a person licensed under this Article has either committed an act or acts that may constitute a violation of this Article, that may constitute unprofessional conduct related directly to patient care, or that indicates that a person licensed under this Article may have a mental or physical disability that may endanger patients under that person's care.

(b) Mandatory Reporting. All reports required under items (16) and (17) of subsection (a) of Section 70-5 shall be submitted to the Board in a timely fashion. The reports shall be filed in writing within 60 days after a determination that a report is required under this Article. All reports shall contain the following information:

(1) The name, address, and telephone number of the person making the report.

(2) The name, address, and telephone number of the person who is the subject of the report.

(3) The name or other means of identification of any patient or patients whose treatment is a subject of the report, except that no medical records may be revealed without the written consent of the patient or patients.

(4) A brief description of the facts that gave rise to the issuance of the report, including, but not limited to, the dates of any occurrences deemed to necessitate the filing of the report.

(5) If court action is involved, the identity of the court in which the action is filed, the docket number, and date of filing of the action.

(6) Any further pertinent information that the reporting party deems to be an aid in the evaluation of the report.

Nothing contained in this Section shall be construed to in any way waive or modify the confidentiality of medical reports and committee reports to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Board, the Board's attorneys, the investigative staff, and authorized clerical staff and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure.

(c) Immunity from Prosecution. An individual or organization acting in good faith, and not in a willful and wanton manner, in complying with this Section by providing a report or other information to the Board, by assisting in the investigation or preparation of a report or information, by participating in proceedings of the Board, or by serving as a member of the Board shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(d) Indemnification. Members of the Board, the Board's attorneys, the investigative staff, advanced practice registered nurses or physicians retained under contract to assist and advise in the investigation, and authorized clerical staff shall be indemnified by the State for any actions (i) occurring within the scope of services on the Board, (ii) performed in good faith, and (iii) not willful and wanton in nature. The Attorney General shall defend all actions taken against those persons unless he or she determines either that there would be a conflict of interest in the representation or that the actions complained of were not performed in good faith or were willful and wanton in nature. If the Attorney General declines representation, the member shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were most performed in good faith or were willful and wanton in nature. The member shall notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification. The Attorney General shall constitute an absolute waiver of the right to a defense and indemnification. The Attorney General shall determine within 7 days after receiving the notice whether he or she will undertake to represent the member.

(e) Deliberations of Board. Upon the receipt of a report called for by this Section, other than those reports of impaired persons licensed under this Article required pursuant to the rules of the Board, the Board shall notify in writing by certified or registered mail or by email to the email address of record the person who is the subject of the report. The notification shall be made within 30 days of receipt by the Board of the report. The notification shall include a written notice setting forth the person's right to examine the report. Included in the notification shall be the address at which the file is maintained, the name of the custodian of the reports, and the telephone number at which the custodian may be reached. The person who is the subject of the report shall submit a written statement responding to, clarifying, adding to, or proposing to amend the report previously filed. The statement shall become a permanent part of the file and shall be received by the Board no more than 30 days after the date on which the person was notified of the existence of the original report. The Board shall review all reports received by it and any supporting information and responding statements submitted by persons who are the subject of reports. The review by the Board shall be in a timely manner but in no event shall the Board's initial review of the material contained in each disciplinary file be less than 61 days nor more than 180 days after the receipt of the initial report by the Board. When the Board makes its initial review of the materials contained within its disciplinary files, the Board shall, in writing, make a determination as to whether there are sufficient facts to warrant further investigation or action. Failure to make that determination within the time provided shall be deemed to be a determination that there are not sufficient facts to warrant further investigation or action. Should the Board find that there are not sufficient facts to warrant further investigation or action, the report shall be accepted for filing and the matter shall be deemed closed and so reported. The individual or entity filing the original report or complaint and the person who is the subject of the report or complaint shall be notified in writing by the Board of any final action on their report or complaint.

(f) (Blank).

(g) Any violation of this Section shall constitute a Class A misdemeanor.

(h) If a person violates the provisions of this Section, an action may be brought in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, for an order enjoining the violation or for an order enforcing compliance with this Section. Upon filing of a petition in court, the court may issue a temporary restraining order without notice or bond and may preliminarily or permanently enjoin the violation, and if it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this subsection shall be in addition to, and not in lieu of, all other remedies and penalties provided for by this Section.

(i) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 99-143, eff. 7-27-15; 100-513, eff. 1-1-18.)

(225 ILCS 65/70-5) (was 225 ILCS 65/10-45)

(Section scheduled to be repealed on January 1, 2028)

Sec. 70-5. Grounds for disciplinary action.

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including fines not to exceed \$10,000 per violation, with regard to a license for any one or combination of the causes set forth in subsection (b) below. All fines collected under this Section shall be deposited in the Nursing Dedicated and Professional Fund.

(b) Grounds for disciplinary action include the following:

(1) Material deception in furnishing information to the Department.

(2) Material violations of any provision of this Act or violation of the rules of or final administrative action of the Secretary, after consideration of the recommendation of the Board.

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony; or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession.

(4) A pattern of practice or other behavior which demonstrates incapacity or incompetency to practice under this Act.

(5) Knowingly aiding or assisting another person in violating any provision of this Act or rules.

(6) Failing, within 90 days, to provide a response to a request for information in response to a written request made by the Department by certified or registered mail or by email to the email address of record.

(7) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, as defined by rule.

(8) Unlawful taking, theft, selling, distributing, or manufacturing of any drug, narcotic, or prescription device.

(9) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that could result in a licensee's inability to practice with reasonable judgment, skill or safety.

(10) Discipline by another U.S. jurisdiction or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(11) A finding that the licensee, after having her or his license placed on probationary status or subject to conditions or restrictions, has violated the terms of probation or failed to comply with such terms or conditions.

(12) Being named as a perpetrator in an indicated report by the Department of Children and Family Services and under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(13) Willful omission to file or record, or willfully impeding the filing or recording or inducing another person to omit to file or record medical reports as required by law.

(13.5) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(14) Gross negligence in the practice of practical, professional, or advanced practice registered nursing.

(15) Holding oneself out to be practicing nursing under any name other than one's own.

(16) Failure of a licensee to report to the Department any adverse final action taken against him or her by another licensing jurisdiction of the United States or any foreign state or country, any peer review body, any health care institution, any professional or nursing society or association, any governmental agency, any law enforcement agency, or any court or a nursing liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this Section.

(17) Failure of a licensee to report to the Department surrender by the licensee of a license or authorization to practice nursing or advanced practice registered nursing in another state or jurisdiction or current surrender by the licensee of membership on any nursing staff or in any nursing or advanced practice registered nursing or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined by this Section.

(18) Failing, within 60 days, to provide information in response to a written request made by the Department.

(19) Failure to establish and maintain records of patient care and treatment as required by law.

(20) Fraud, deceit or misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal of a license under this Act.

(21) Allowing another person or organization to use the licensee's license to deceive the public.

(22) Willfully making or filing false records or reports in the licensee's practice, including but not limited to false records to support claims against the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(23) Attempting to subvert or cheat on a licensing examination administered under this Act.

(24) Immoral conduct in the commission of an act, including, but not limited to, sexual abuse, sexual misconduct, or sexual exploitation, related to the licensee's practice.

(25) Willfully or negligently violating the confidentiality between nurse and patient except as required by law.

(26) Practicing under a false or assumed name, except as provided by law.

(27) The use of any false, fraudulent, or deceptive statement in any document connected with the licensee's practice.

(28) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered. Nothing in this paragraph (28) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this paragraph (28) shall be construed to require an employment arrangement to receive professional fees for services rendered.

(29) A violation of the Health Care Worker Self-Referral Act.

(30) Physical illness, mental illness, or disability that results in the inability to practice the profession with reasonable judgment, skill, or safety.

(31) Exceeding the terms of a collaborative agreement or the prescriptive authority delegated to a licensee by his or her collaborating physician or podiatric physician in guidelines established under a written collaborative agreement.

(32) Making a false or misleading statement regarding a licensee's skill or the efficacy or value of the medicine, treatment, or remedy prescribed by him or her in the course of treatment.

(33) Prescribing, selling, administering, distributing, giving, or self-administering a drug classified as a controlled substance (designated product) or narcotic for other than medically accepted therapeutic purposes.

(34) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in a manner to exploit the patient for financial gain.

(35) Violating State or federal laws, rules, or regulations relating to controlled substances.

(36) Willfully or negligently violating the confidentiality between an advanced practice registered nurse, collaborating physician, dentist, or podiatric physician and a patient, except as required by law.

(37) Willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act.

(38) Being named as an abuser in a verified report by the Department on Aging and under the Adult Protective Services Act, and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.

(39) A violation of any provision of this Act or any rules adopted under this Act.

(40) Violating the Compassionate Use of Medical Cannabis Program Act.

(b-1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a registered nurse or an advanced practice registered nurse based solely upon the registered nurse or advanced practice registered nurse providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(b-2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a registered nurse or an advanced practice registered nurse based upon the registered nurse's or advanced practice registered nurse's license being revoked or suspended, or the registered nurse or advanced practice registered nurse's license being revoked or suspended, or the registered nurse or other form of discipline was based solely on the registered nurse or advanced practice registered nurse being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the registered nurse or advanced practice registered nurse 's lows prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the registered nurse or advanced practice registered nurse if it occurred in Illinois.

(b-3) The conduct specified in subsection (b-1) or (b-2) shall not trigger reporting requirements under Section 65-65 or constitute grounds for suspension under Section 70-60.

(b-4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having provided, authorized, recommended, aided, assisted, referred for, or otherwise

participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. The suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice.

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

(e) In enforcing this Act, the Department, upon a showing of a possible violation, may compel an individual licensed to practice under this Act or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall result in an automatic suspension without hearing.

All substance-related violations shall mandate an automatic substance abuse assessment. Failure to submit to an assessment by a licensed physician who is certified as an addictionist or an advanced practice registered nurse with specialty certification in addictions may be grounds for an automatic suspension, as defined by rule.

If the Department finds an individual unable to practice or unfit for duty because of the reasons set forth in this subsection (e), the Department may require that individual to submit to a substance abuse evaluation or treatment by individuals or programs approved or designated by the Department, as a condition, term, or restriction for continued, restored, or renewed licensure to practice; or, in lieu of evaluation or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, restored, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary immediately suspends a person's license under this subsection (e), a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this subsection (e) shall be afforded an opportunity to demonstrate to the Department that he or she can resume practice in compliance with nursing standards under the provisions of his or her license.

(f) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 101-363, eff. 8-9-19; 102-558, eff. 8-20-21.)

Section 9-15. The Physician Assistant Practice Act of 1987 is amended by changing Section 21 as follows:

(225 ILCS 95/21) (from Ch. 111, par. 4621) (Section scheduled to be repealed on January 1, 2028) Sec. 21. Grounds for disciplinary action. (a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action with regard to any license issued under this Act as the Department may deem proper, including the issuance of fines not to exceed \$10,000 for each violation, for any one or combination of the following causes:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act, or the rules adopted under this Act.

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States that is: (i) a felony; or (ii) a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining licenses.

(5) Professional incompetence.

(6) Aiding or assisting another person in violating any provision of this Act or its rules.

(7) Failing, within 60 days, to provide information in response to a written request made by the Department.

(8) Engaging in dishonorable, unethical, or unprofessional conduct, as defined by rule, of a character likely to deceive, defraud, or harm the public.

(9) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a physician assistant's inability to practice with reasonable judgment, skill, or safety.

(10) Discipline by another U.S. jurisdiction or foreign nation, if at least one of the grounds for discipline is the same or substantially equivalent to those set forth in this Section.

(11) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate or other form of compensation for any professional services not actually or personally rendered. Nothing in this paragraph (11) affects any bona fide independent contractor or employment arrangements, which may include provisions for compensation, health insurance, pension, or other employment benefits, with persons or entities authorized under this Act for the provision of services within the scope of the licensee's practice under this Act.

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

(13) Abandonment of a patient.

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

(15) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

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

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) (Blank).

(19) Gross negligence resulting in permanent injury or death of a patient.

(20) Employment of fraud, deception or any unlawful means in applying for or securing a license as a physician assistant.

(21) Exceeding the authority delegated to him or her by his or her collaborating physician in a written collaborative agreement.

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

(23) Violation of the Health Care Worker Self-Referral Act.

(24) Practicing under a false or assumed name, except as provided by law.

(25) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, treatment, or remedy prescribed by him or her in the course of treatment.

[January 6, 2023]

(26) Allowing another person to use his or her license to practice.

(27) Prescribing, selling, administering, distributing, giving, or self-administering a drug classified as a controlled substance for other than medically accepted therapeutic purposes.

(28) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in a manner to exploit the patient for financial gain.

(29) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(30) Violating State or federal laws or regulations relating to controlled substances or other legend drugs or ephedra as defined in the Ephedra Prohibition Act.

(31) Exceeding the prescriptive authority delegated by the collaborating physician or violating the written collaborative agreement delegating that authority.

(32) Practicing without providing to the Department a notice of collaboration or delegation of prescriptive authority.

(33) Failure to establish and maintain records of patient care and treatment as required by law.

(34) Attempting to subvert or cheat on the examination of the National Commission on Certification of Physician Assistants or its successor agency.

(35) Willfully or negligently violating the confidentiality between physician assistant and patient, except as required by law.

(36) Willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act.

(37) Being named as an abuser in a verified report by the Department on Aging under the Adult Protective Services Act and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.

(38) Failure to report to the Department an adverse final action taken against him or her by another licensing jurisdiction of the United States or a foreign state or country, a peer review body, a health care institution, a professional society or association, a governmental agency, a law enforcement agency, or a court acts or conduct similar to acts or conduct that would constitute grounds for action under this Section.

(39) Failure to provide copies of records of patient care or treatment, except as required by law.

(40) Entering into an excessive number of written collaborative agreements with licensed physicians resulting in an inability to adequately collaborate.

(41) Repeated failure to adequately collaborate with a collaborating physician.

(42) Violating the Compassionate Use of Medical Cannabis Program Act.

(b) The Department may, without a hearing, refuse to issue or renew or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(b-1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a physician assistant based solely upon the physician assistant providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(b-2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a physician assistant based upon the physician assistant's license being revoked or suspended, or the physician assistant being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the physician assistant violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the physician assistant if it occurred in Illinois.

(b-3) The conduct specified in subsection (b-1) or (b-2) shall not constitute grounds for suspension under Section 22.13.

(b-4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having provided, authorized, recommended, aided, assisted, referred for, or otherwise

participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient, and upon the recommendation of the Disciplinary Board to the Secretary that the licensee be allowed to resume his or her practice.

(d) In enforcing this Section, the Department upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, which may include a substance abuse or sexual offender evaluation, as required by and at the expense of the Department.

The Department shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing.

The Department may order the examining physician or any member of the multidisciplinary team to provide to the Department any and all records, including business records, that relate to the examination and evaluation, including any supplemental testing performed.

The Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning the mental or physical examination of the licensee or applicant. No information, report, record, or other documents in any way related to the examination shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee or applicant ordered to undergo an examination for the examining physician or any member of the multidisciplinary team to provide information, reports, records, or other documents or to provide any testimony regarding the examination and evaluation.

The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. However, that physician shall be present only to observe and may not interfere in any way with the examination.

Failure of an individual to submit to a mental or physical examination, when ordered, shall result in an automatic suspension of his or her license until the individual submits to the examination.

If the Department finds an individual unable to practice because of the reasons set forth in this Section, the Department may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

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

(f) Members of the Board and the Disciplinary Board shall be indemnified by the State for any actions occurring within the scope of services on the Disciplinary Board or Board, done in good faith and not willful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were willful and wanton.

If the Attorney General declines representation, the member has the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were willful and wanton.

The member must notify the Attorney General within 7 days after receipt of notice of the initiation of any action involving services of the Disciplinary Board. Failure to so notify the Attorney General constitutes an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine, within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(g) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 101-363, eff. 8-9-19; 102-558, eff. 8-20-21.)

Section 9-20. The Clinical Social Work and Social Work Practice Act is amended by changing Section 19 as follows:

(225 ILCS 20/19) (from Ch. 111, par. 6369)

(Section scheduled to be repealed on January 1, 2028)

Sec. 19. Grounds for disciplinary action.

(1) The Department may refuse to issue or renew a license, or may suspend, revoke, place on probation, reprimand, or take any other disciplinary or non-disciplinary action deemed appropriate by the Department, including the imposition of fines not to exceed \$10,000 for each violation, with regard to any license issued under the provisions of this Act for any one or a combination of the following grounds:

(a) material misstatements in furnishing information to the Department or to any other State agency or in furnishing information to any insurance company with respect to a claim on behalf of a licensee or a patient;

(b) violations or negligent or intentional disregard of this Act, or any of the rules promulgated hereunder;

(c) conviction of or entry of a plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the clinical social work or social work professions;

(d) fraud or misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal or restoration of a license under this Act;

(e) professional incompetence;

(f) gross negligence in practice under this Act;

(g) aiding or assisting another person in violating any provision of this Act or its rules;

(h) failing to provide information within 60 days in response to a written request made by the Department;

(i) engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public as defined by the rules of the Department, or violating the rules of professional conduct adopted by the Department;

(j) habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, or of any other substances that results in the inability to practice with reasonable judgment, skill, or safety;

(k) adverse action taken by another state or jurisdiction, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section;

(1) directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate or other form of compensation for any professional service not actually rendered. Nothing in this paragraph (1) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this paragraph (1) shall be construed to require an employment arrangement to receive professional fees for services rendered;

(m) a finding by the Department that the licensee, after having the license placed on probationary status, has violated the terms of probation or failed to comply with such terms;

(n) abandonment, without cause, of a client;

(o) willfully making or filing false records or reports relating to a licensee's practice, including, but not limited to, false records filed with Federal or State agencies or departments;

(p) willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act;

(q) being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act;

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

(s) solicitation of professional services by using false or misleading advertising;

(t) violation of the Health Care Worker Self-Referral Act;

(u) willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act; or

 (v) being named as an abuser in a verified report by the Department on Aging under the Adult Protective Services Act, and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.
(2) (Blank).

(2.1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against a license or permit issued under this Act based solely upon the licensed clinical social worker authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(2.2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a licensed clinical social worker based upon the licensed clinical social worker's license being revoked or suspended, or the licensed clinical social worker being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the licensed clinical social worker violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the licensed clinical social worker if it occurred in Illinois.

(2.3) The conduct specified in subsection (2.1) or (2.2) shall not constitute grounds for suspension under Section 32.

(2.4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having authorized, recommended, aided, assisted, referred for, or otherwise

participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(3) The determination by a court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, will result in an automatic suspension of his license. Such suspension will end upon a finding by a court that the licensee is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient, and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume professional practice.

(4) The Department shall refuse to issue or renew or may suspend the license of a person who (i) fails to file a return, pay the tax, penalty, or interest shown in a filed return, or pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Department of Revenue, until the requirements of the tax Act are satisfied or (ii) has failed to pay any court-ordered child support as determined by a court order or by referral from the Department of Healthcare and Family Services.

(5)(a) In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel a person licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, which may include a substance abuse or sexual offender evaluation, as required by and at the expense of the Department.

(b) The Department shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing, or neuropsychological testing.

(c) The Board or the Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning this mental or physical examination of the licensee or applicant. No information, report, record, or other documents in any way related to the examination shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee or applicant ordered to undergo an examination for the examining physician or any member of the multidisciplinary team. No or other documents or to provide any testimony regarding the examination and evaluation.

(d) The person to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. However, that physician shall be present only to observe and may not interfere in any way with the examination.

(e) Failure of any person to submit to a mental or physical examination without reasonable cause, when ordered, shall result in an automatic suspension of his or her license until the person submits to the examination.

(f) If the Department or Board finds a person unable to practice because of the reasons set forth in this Section, the Department or Board may require that person to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the person. Any person whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the person shall have his or her license suspended immediately, pending a hearing by the Department.

(g) All fines imposed shall be paid within 60 days after the effective date of the order imposing the fine or in accordance with the terms set forth in the order imposing the fine.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject person's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

(6) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 100-414, eff. 8-25-17.)

Section 9-25. The Pharmacy Practice Act is amended by changing Sections 30 and 30.1 as follows: (225 ILCS 85/30) (from Ch. 111, par. 4150)

(Section scheduled to be repealed on January 1, 2028)

Sec. 30. Refusal, revocation, suspension, or other discipline.

(a) The Department may refuse to issue or renew, or may revoke a license, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any licensee for any one or combination of the following causes:

1. Material misstatement in furnishing information to the Department.

2. Violations of this Act, or the rules promulgated hereunder.

3. Making any misrepresentation for the purpose of obtaining licenses.

4. A pattern of conduct which demonstrates incompetence or unfitness to practice.

5. Aiding or assisting another person in violating any provision of this Act or rules.

6. Failing, within 60 days, to respond to a written request made by the Department for information.

7. Engaging in unprofessional, dishonorable, or unethical conduct of a character likely to deceive, defraud or harm the public as defined by rule.

8. Adverse action taken by another state or jurisdiction against a license or other authorization to practice as a pharmacy, pharmacist, registered certified pharmacy technician, or registered pharmacy technician that is the same or substantially equivalent to those set forth in this Section, a certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof.

9. Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate or other form of compensation for any professional services not actually or personally rendered. Nothing in this item 9 affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this item 9 shall be construed to require an employment arrangement to receive professional fees for services rendered.

10. A finding by the Department that the licensee, after having his license placed on probationary status, has violated the terms of probation.

11. Selling or engaging in the sale of drug samples provided at no cost by drug manufacturers.

12. Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in the inability to practice the profession with reasonable judgment, skill or safety.

13. A finding that licensure or registration has been applied for or obtained by fraudulent means.

14. Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of pharmacy; or involves controlled substances.

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

16. Willfully making or filing false records or reports in the practice of pharmacy, including, but not limited to, false records to support claims against the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Public Aid Code.

17. Gross and willful overcharging for professional services including filing false statements for collection of fees for which services are not rendered, including, but not limited to, filing false statements for collection of monies for services not rendered from the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Public Aid Code.

18. Dispensing prescription drugs without receiving a written or oral prescription in violation of law.

19. Upon a finding of a substantial discrepancy in a Department audit of a prescription drug, including controlled substances, as that term is defined in this Act or in the Illinois Controlled Substances Act.

20. Physical or mental illness or any other impairment or disability, including, without limitation: (A) deterioration through the aging process or loss of motor skills that results in the inability to practice with reasonable judgment, skill or safety; or (B) mental incompetence, as declared by a court of competent jurisdiction.

21. Violation of the Health Care Worker Self-Referral Act.

22. Failing to sell or dispense any drug, medicine, or poison in good faith. "Good faith", for the purposes of this Section, has the meaning ascribed to it in subsection (u) of Section 102 of the Illinois Controlled Substances Act. "Good faith", as used in this item (22), shall not be limited to the sale or dispensing of controlled substances, but shall apply to all prescription drugs.

23. Interfering with the professional judgment of a pharmacist by any licensee under this Act, or the licensee's agents or employees.

24. Failing to report within 60 days to the Department any adverse final action taken against a pharmacy, pharmacist, registered pharmacy technician, or registered certified pharmacy technician by another licensing jurisdiction in any other state or any territory of the United States or any foreign jurisdiction, any governmental agency, any law enforcement agency, or any court for acts or conduct similar to acts or conduct that would constitute grounds for discipline as defined in this Section.

25. Failing to comply with a subpoena issued in accordance with Section 35.5 of this Act.

26. Disclosing protected health information in violation of any State or federal law.

27. Willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act.

28. Being named as an abuser in a verified report by the Department on Aging under the Adult Protective Services Act, and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.

29. Using advertisements or making solicitations that may jeopardize the health, safety, or welfare of patients, including, but not be limited to, the use of advertisements or solicitations that:

(A) are false, fraudulent, deceptive, or misleading; or

(B) include any claim regarding a professional service or product or the cost or price thereof that cannot be substantiated by the licensee.

30. Requiring a pharmacist to participate in the use or distribution of advertisements or in making solicitations that may jeopardize the health, safety, or welfare of patients.

31. Failing to provide a working environment for all pharmacy personnel that protects the health, safety, and welfare of a patient, which includes, but is not limited to, failing to:

(A) employ sufficient personnel to prevent fatigue, distraction, or other conditions that interfere with a pharmacist's ability to practice with competency and safety or creates an environment that jeopardizes patient care;

(B) provide appropriate opportunities for uninterrupted rest periods and meal breaks;

(C) provide adequate time for a pharmacist to complete professional duties and responsibilities, including, but not limited to:

(i) drug utilization review;

(ii) immunization;

(iii) counseling;

(iv) verification of the accuracy of a prescription; and

(v) all other duties and responsibilities of a pharmacist as listed in the rules of the Department.

32. Introducing or enforcing external factors, such as productivity or production quotas or other programs against pharmacists, student pharmacists or pharmacy technicians, to the extent that they interfere with the ability of those individuals to provide appropriate professional services to the public.

33. Providing an incentive for or inducing the transfer of a prescription for a patient absent a professional rationale.

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

(c) The Department shall revoke any license issued under the provisions of this Act or any prior Act of this State of any person who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license issued under the provisions of this Act or any prior Act of this State is revoked under this subsection (c) shall be prohibited from engaging in the practice of pharmacy in this State.

(c-1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a pharmacist, registered pharmacy technician, or registered certified pharmacy technician based solely upon the pharmacist, registered pharmacy technician, or registered certified pharmacy technician providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(c-2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a pharmacist, registered pharmacy technician, or registered certified pharmacy technician based upon the pharmacist's, registered pharmacy technician's, or registered disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the pharmacist, registered pharmacy technician violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the pharmacist, registered pharmacy technician, or registered certified pharmacy technician if it occurred in Illinois.

(c-3) The conduct specified in subsection (c-1) or (c-2) shall not constitute grounds for suspension under Section 35.16.

(c-4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having provided, authorized, recommended, aided, assisted, referred for, or otherwise participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(d) Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury to a patient. Fines shall be paid within 60 days or as otherwise agreed to by the Department. Any funds collected from such fines shall be deposited in the Illinois State Pharmacy Disciplinary Fund.

(e) The entry of an order or judgment by any circuit court establishing that any person holding a license or certificate under this Act is a person in need of mental treatment operates as a suspension of that

license. A licensee may resume his or her practice only upon the entry of an order of the Department based upon a finding by the Board that he or she has been determined to be recovered from mental illness by the court and upon the Board's recommendation that the licensee be permitted to resume his or her practice.

(f) The Department shall issue quarterly to the Board a status of all complaints related to the profession received by the Department.

(g) In enforcing this Section, the Board or the Department, upon a showing of a possible violation, may compel any licensee or applicant for licensure under this Act to submit to a mental or physical examination or both, as required by and at the expense of the Department. The examining physician, or multidisciplinary team involved in providing physical and mental examinations led by a physician consisting of one or a combination of licensed physicians, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff, shall be those specifically designated by the Department. The Board or the Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning this mental or physical examination of the licensee or applicant. No information, report, or other documents in any way related to the examination shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee or applicant and the examining physician or any member of the multidisciplinary team. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to a mental or physical examination when directed shall result in the automatic suspension of his or her license until such time as the individual submits to the examination. If the Board or Department finds a pharmacist, registered certified pharmacy technician, or registered pharmacy technician unable to practice because of the reasons set forth in this Section, the Board or Department shall require such pharmacist, registered certified pharmacy technician, or registered pharmacy technician to submit to care, counseling, or treatment by physicians or other appropriate health care providers approved or designated by the Department as a condition for continued, restored, or renewed licensure to practice. Any pharmacist, registered certified pharmacy technician, or registered pharmacy technician whose license was granted, continued, restored, renewed, disciplined, or supervised, subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions or to complete a required program of care, counseling, or treatment, as determined by the chief pharmacy coordinator, shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Board. In instances in which the Secretary immediately suspends a license under this subsection (g), a hearing upon such person's license must be convened by the Board within 15 days after such suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject pharmacist's, registered certified pharmacy technician's, or registered pharmacy technician's record of treatment and counseling regarding the impairment.

(h) An individual or organization acting in good faith, and not in a willful and wanton manner, in complying with this Section by providing a report or other information to the Board, by assisting in the investigation or preparation of a report or information, by participating in proceedings of the Board, or by serving as a member of the Board shall not, as a result of such actions, be subject to criminal prosecution or civil damages. Any person who reports a violation of this Section to the Department is protected under subsection (b) of Section 15 of the Whistleblower Act.

(i) Members of the Board shall have no liability in any action based upon any disciplinary proceedings or other activity performed in good faith as a member of the Board. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were willful and wanton.

If the Attorney General declines representation, the member shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were willful and wanton.

The member must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine, within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(j) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 101-621, eff. 1-1-20; 102-882, eff. 1-1-23; revised 12-9-22.)

(225 ILCS 85/30.1)

(Section scheduled to be repealed on January 1, 2028) Sec. 30.1. Reporting.

(a) When a pharmacist, registered certified pharmacy technician, or a registered pharmacy technician licensed by the Department is terminated for actions which may have threatened patient safety, the pharmacy or pharmacist-in-charge, pursuant to the policies and procedures of the pharmacy at which he or she is employed, shall report the termination to the chief pharmacy coordinator. Such reports shall be strictly confidential and may be reviewed and considered only by the members of the Board or by authorized Department staff. Such reports, and any records associated with such reports, are exempt from public disclosure and the Freedom of Information Act. Although the reports are exempt from disclosure, any formal complaint filed against a licensee or registrant by the Department or any order issued by the Department against a licensee, registrant, or applicant shall be a public record, except as otherwise prohibited by law. A pharmacy shall not take any adverse action, including, but not limited to, disciplining or terminating a pharmacist, registered certified pharmacy technician, or registered pharmacy technician, as a result of an adverse action against the person's license or clinical privileges or other disciplinary action by another state or health care institution that resulted from the pharmacist's, registered certified pharmacy technician's, or registered pharmacy technician's provision of, authorization of, recommendation of, aiding or assistance with, referral for, or participation in any health care service, if the adverse action was based solely on a violation of the other state's law prohibiting the provision such health care and related services in the state or for a resident of the state.

(b) The report shall be submitted to the chief pharmacy coordinator in a timely fashion. Unless otherwise provided in this Section, the reports shall be filed in writing, on forms provided by the Department, within 60 days after a pharmacy's determination that a report is required under this Act. All reports shall contain only the following information:

(1) The name, address, and telephone number of the person making the report.

(2) The name, license number, and last known address and telephone number of the person who is the subject of the report.

(3) A brief description of the facts which gave rise to the issuance of the report, including dates of occurrence.

(c) The contents of any report and any records associated with such report shall be strictly confidential and may only be reviewed by:

(1) members of the Board of Pharmacy;

(2) the Board of Pharmacy's designated attorney;

(3) administrative personnel assigned to open mail containing reports, to process and distribute reports to authorized persons, and to communicate with senders of reports;

(4) Department investigators and Department prosecutors; or

(5) attorneys from the Office of the Illinois Attorney General representing the Department in litigation in response to specific disciplinary action the Department has taken or initiated against a specific individual pursuant to this Section.

(d) Whenever a pharmacy or pharmacist-in-charge makes a report and provides any records associated with that report to the Department, acts in good faith, and not in a willful and wanton manner, the person or entity making the report and the pharmacy or health care institution employing him or her shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(e) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 99-863, eff. 8-19-16.)

Section 9-30. The Genetic Counselor Licensing Act is amended by changing Section 95 as follows: (225 ILCS 135/95)

(Section scheduled to be repealed on January 1, 2025)

Sec. 95. Grounds for discipline.

(a) The Department may refuse to issue, renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department deems appropriate, including the issuance of fines not to exceed \$10,000 for each violation, with regard to any license for any one or more of the following:

[January 6, 2023]

(1) Material misstatement in furnishing information to the Department or to any other State agency.

(2) Violations or negligent or intentional disregard of this Act, or any of its rules.

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of genetic counseling.

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

(5) Negligence in the rendering of genetic counseling services.

(6) Failure to provide genetic testing results and any requested information to a referring physician licensed to practice medicine in all its branches, advanced practice registered nurse, or physician assistant.

(7) Aiding or assisting another person in violating any provision of this Act or any rules.

(8) Failing to provide information within 60 days in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public and violating the rules of professional conduct adopted by the Department.

(10) Failing to maintain the confidentiality of any information received from a client, unless otherwise authorized or required by law.

(10.5) Failure to maintain client records of services provided and provide copies to clients upon request.

(11) Exploiting a client for personal advantage, profit, or interest.

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

(13) Discipline by another governmental agency or unit of government, by any jurisdiction of the United States, or by a foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(14) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for any professional service not actually rendered. Nothing in this paragraph (14) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this paragraph (14) shall be construed to require an employment arrangement to receive professional fees for services rendered.

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

(16) Failing to refer a client to other health care professionals when the licensee is unable or unwilling to adequately support or serve the client.

(17) Willfully filing false reports relating to a licensee's practice, including but not limited to false records filed with federal or State agencies or departments.

(18) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(19) Being named as a perpetrator in an indicated report by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(20) Physical or mental disability, including deterioration through the aging process or loss of abilities and skills which results in the inability to practice the profession with reasonable judgment, skill, or safety.

(21) Solicitation of professional services by using false or misleading advertising.

(22) Failure to file a return, or to pay the tax, penalty of interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue or any successor agency or the Internal Revenue Service or any successor agency.

(23) Fraud or making any misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal of a license under this Act.

(24) Practicing or attempting to practice under a name other than the full name as shown on the license or any other legally authorized name.

(25) Gross overcharging for professional services, including filing statements for collection of fees or monies for which services are not rendered.

(26) (Blank).

(27) Charging for professional services not rendered, including filing false statements for the collection of fees for which services are not rendered.

(28) Allowing one's license under this Act to be used by an unlicensed person in violation of this Act.

(b) (Blank).

(b-1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a genetic counselor based solely upon the genetic counselor authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(b-2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a genetic counselor based upon the genetic counselor's license being revoked or suspended, or the genetic counselor being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the genetic counselor violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the genetic counselor if it occurred in Illinois.

(b-3) The conduct specified in subsection (b-1) or (b-2) shall not constitute grounds for suspension under Section 160.

(b-4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having authorized, recommended, aided, assisted, referred for, or otherwise participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(c) The determination by a court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code will result in an automatic suspension of his or her license. The suspension will end upon a finding by a court that the licensee is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the patient, and the determination of the Secretary that the licensee be allowed to resume professional practice.

(d) The Department may refuse to issue or renew or may suspend without hearing the license of any person who fails to file a return, to pay the tax penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty, or interest as required by any Act regarding the payment of taxes administered by the Illinois Department of Revenue until the requirements of the Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

(e) In cases where the Department of Healthcare and Family Services has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in

accordance with item (5) of subsection (a) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(f) All fines or costs imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine or costs or in accordance with the terms set forth in the order imposing the fine.

(g) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 99-173, eff. 7-29-15; 99-633, eff. 1-1-17; 100-201, eff. 8-18-17; 100-513, eff. 1-1-18; 100-872, eff. 8-14-18.)

Section 9-35. The Clinical Psychologist Licensing Act is amended by changing Section 15 as follows: (225 ILCS 15/15) (from Ch. 111, par. 5365)

(Section scheduled to be repealed on January 1, 2027)

Sec. 15. Disciplinary action; grounds.

(a) The Department may refuse to issue, refuse to renew, suspend, or revoke any license, or may place on probation, reprimand, or take other disciplinary or non-disciplinary action deemed appropriate by the Department, including the imposition of fines not to exceed \$10,000 for each violation, with regard to any license issued under the provisions of this Act for any one or a combination of the following reasons:

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

(2) Gross negligence in the rendering of clinical psychological services.

(3) Using fraud or making any misrepresentation in applying for a license or in passing the examination provided for in this Act.

(4) Aiding or abetting or conspiring to aid or abet a person, not a clinical psychologist licensed under this Act, in representing himself or herself as so licensed or in applying for a license under this Act.

(5) Violation of any provision of this Act or the rules promulgated thereunder.

(6) Professional connection or association with any person, firm, association, partnership or corporation holding himself, herself, themselves, or itself out in any manner contrary to this Act.

(7) Unethical, unauthorized or unprofessional conduct as defined by rule. In establishing those rules, the Department shall consider, though is not bound by, the ethical standards for psychologists promulgated by recognized national psychology associations.

(8) Aiding or assisting another person in violating any provisions of this Act or the rules promulgated thereunder.

(9) Failing to provide, within 60 days, information in response to a written request made by the Department.

(10) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a clinical psychologist's inability to practice with reasonable judgment, skill or safety.

(11) Discipline by another state, territory, the District of Columbia or foreign country, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein.

(12) Directly or indirectly giving or receiving from any person, firm, corporation, association or partnership any fee, commission, rebate, or other form of compensation for any professional service not actually or personally rendered. Nothing in this paragraph (12) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this paragraph (12) shall be construed to require an employment arrangement to receive professional fees for services rendered.

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

(14) Willfully making or filing false records or reports, including but not limited to, false records or reports filed with State agencies or departments.

(15) Physical illness, including but not limited to, deterioration through the aging process, mental illness or disability that results in the inability to practice the profession with reasonable judgment, skill and safety.

(16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) Violation of the Health Care Worker Self-Referral Act.

(19) Making a material misstatement in furnishing information to the Department, any other State or federal agency, or any other entity.

(20) Failing to report to the Department any adverse judgment, settlement, or award arising from a liability claim related to an act or conduct similar to an act or conduct that would constitute grounds for action as set forth in this Section.

(21) Failing to report to the Department any adverse final action taken against a licensee or applicant by another licensing jurisdiction, including any other state or territory of the United States or any foreign state or country, or any peer review body, health care institution, professional society or association related to the profession, governmental agency, law enforcement agency, or court for an act or conduct similar to an act or conduct that would constitute grounds for disciplinary action as set forth in this Section.

(22) Prescribing, selling, administering, distributing, giving, or self-administering (A) any drug classified as a controlled substance (designated product) for other than medically accepted therapeutic purposes or (B) any narcotic drug.

(23) Violating state or federal laws or regulations relating to controlled substances, legend drugs, or ephedra as defined in the Ephedra Prohibition Act.

(24) Exceeding the terms of a collaborative agreement or the prescriptive authority delegated to a licensee by his or her collaborating physician or established under a written collaborative agreement.

The entry of an order by any circuit court establishing that any person holding a license under this Act is subject to involuntary admission or judicial admission as provided for in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension of that license. That person may have his or her license restored only upon the determination by a circuit court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient and upon the Board's recommendation to the Department that the license be restored. Where the circumstances so indicate, the Board may recommend to the Department that it require an examination prior to restoring any license so automatically suspended.

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

In enforcing this Section, the Department or Board upon a showing of a possible violation may compel any person licensed to practice under this Act, or who has applied for licensure or certification pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians or clinical psychologists shall be those specifically designated by the Department. The Board or the Department may order the examining physician or clinical psychologist to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or clinical psychologist. The person to be examined may have, at his or her own expense, another physician or clinical psychologist of his or her choice present during all aspects of the examination. Failure of any person to submit to a mental or physical examination, when directed, shall be grounds for suspension of a license until the person submits to the examination if the Department or Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds a person unable to practice because of the reasons set forth in this Section, the Department or Board may require that person to submit to care, counseling or treatment by physicians or clinical psychologists approved or designated by the Department, as a condition, term, or

restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling or treatment, the Board may recommend to the Department to file or the Department may file a complaint to immediately suspend, revoke or otherwise discipline the license of the person. Any person whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions or restrictions, and who fails to comply with such terms, conditions or restrictions, shall be referred to the Secretary for a determination as to whether the person shall have his or her license suspended immediately, pending a hearing by the Board.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Board within 15 days after the suspension and completed without appreciable delay. The Board shall have the authority to review the subject person's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

(b) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against a license or permit issued under this Act based solely upon the licensed clinical psychologist recommending, aiding, assisting, referring for, or participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(c) The Department shall not revoke, suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a licensed clinical psychologist based upon the licensed clinical psychologist's license being revoked or suspended, or the licensed clinical psychologist being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the licensed clinical psychologist violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the licensed clinical psychologist if it occurred in Illinois.

(d) The conduct specified in subsection (b) or (c) shall not constitute grounds for suspension under Section 21.6.

(e) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a licensed clinical psychologist based solely upon the license of a licensed clinical psychologist being revoked or the licensed clinical psychologist being otherwise disciplined by any other state or territory other than Illinois for the referral for or having otherwise participated in any health care service, if the revocation or disciplinary action was based solely on a violation of the other state's law prohibiting related sexual or reproductive healthcare or gender-affirming care services in the state, for a resident of the state, or in any other state. Illinois retains the ability to discipline a licensed clinical psychologist for care provided that would otherwise constitute dishonorable, unethical, or unprofessional conduct or gross negligence under this Act and correlating rules.

(f) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 98-668, eff. 6-25-14; 99-572, eff. 7-15-16.)

Section 9-40. The Marriage and Family Therapy Licensing Act is amended by changing Section 85 as follows:

(225 ILCS 55/85) (from Ch. 111, par. 8351-85)

(Section scheduled to be repealed on January 1, 2027)

Sec. 85. Refusal, revocation, or suspension.

(a) The Department may refuse to issue or renew a license, or may revoke, suspend, reprimand, place on probation, or take any other disciplinary or non-disciplinary action as the Department may deem proper, including the imposition of fines not to exceed \$10,000 for each violation, with regard to any license issued under the provisions of this Act for any one or combination of the following grounds:

(1) Material misstatement in furnishing information to the Department.

(2) Violation of any provision of this Act or its rules.

(3) Conviction of or entry of a plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor, an essential element of which is dishonesty or that is directly related to the practice of the profession.

(4) Fraud or misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal or restoration of a license under this Act or its rules.

(5) Professional incompetence.

(6) Gross negligence in practice under this Act.

(7) Aiding or assisting another person in violating any provision of this Act or its rules.

(8) Failing, within 60 days, to provide information in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public as defined by the rules of the Department, or violating the rules of professional conduct adopted by the Department.

(10) Habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, or any other substance that results in the inability to practice with reasonable judgment, skill, or safety.

(11) Discipline by another jurisdiction if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for any professional services not actually or personally rendered. Nothing in this paragraph (12) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this paragraph (12) shall be construed to require an employment arrangement to receive professional fees for services rendered.

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

(14) Abandonment of a patient without cause.

(15) Willfully making or filing false records or reports relating to a licensee's practice, including but not limited to false records filed with State agencies or departments.

(16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

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

(19) Solicitation of professional services by using false or misleading advertising.

(20) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(21) Practicing under a false or assumed name, except as provided by law.

(22) Gross, willful, and continued overcharging for professional services, including filing false statements for collection of fees or moneys for which services are not rendered.

(23) Failure to establish and maintain records of patient care and treatment as required by law.

(24) Cheating on or attempting to subvert the licensing examinations administered under this Act.

(25) Willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act.

[January 6, 2023]

(26) Being named as an abuser in a verified report by the Department on Aging and under the Adult Protective Services Act and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.

(b) (Blank).

(b-1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a marriage and family therapist or associate licensed marriage and family therapist based solely upon the marriage and family therapist or associate licensed marriage and family therapist authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(b-2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a marriage and family therapist or associate licensed marriage and family therapist's or associate licensed marriage and family therapist's license being revoked or suspended, or the marriage and family therapist or associate licensed marriage and family therapist's license being revoked or suspended, or the marriage and family therapist or associate licensed marriage and family therapist being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the marriage and family therapist or associate licensed marriage and family therapist violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the marriage and family therapist or associate licensed marriage

(b-3) The conduct specified in subsection (b-1) or (b-2) shall not constitute grounds for suspension under Section 145.

(b-4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having authorized, recommended, aided, assisted, referred for, or otherwise participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. The suspension will terminate only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient, and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice as a licensed marriage and family therapist or an associate licensed marriage and family therapist.

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

(e) In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, which may include a substance abuse or sexual offender evaluation, as required by and at the expense of the Department.

The Department shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, licensed marriage and family therapists, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination and evaluation pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing, or neuropsychological testing.

The Department may order the examining physician or any member of the multidisciplinary team to provide to the Department any and all records, including business records, that relate to the examination and evaluation, including any supplemental testing performed.

The Department or Board may order the examining physician or any member of the multidisciplinary team to present testimony concerning the mental or physical examination of the licensee or applicant. No information, report, record, or other documents in any way related to the examination shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee or applicant ordered to undergo an examination for the examining physician or any member of the multidisciplinary team to provide information, reports, records, or other documents or to provide any testimony regarding the examination and evaluation.

The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. However, that physician shall be present only to observe and may not interfere in any way with the examination.

Failure of an individual to submit to a mental or physical examination, when ordered, shall result in an automatic suspension of his or her license until the individual submits to the examination.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

(f) A fine shall be paid within 60 days after the effective date of the order imposing the fine or in accordance with the terms set forth in the order imposing the fine.

(g) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 100-372, eff. 8-25-17; 100-872, eff. 8-14-18.)

Section 9-45. The Licensed Certified Professional Midwife Practice Act is amended by changing Section 100 as follows:

(225 ILCS 64/100)

(Section scheduled to be repealed on January 1, 2027)

Sec. 100. Grounds for disciplinary action.

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action with regard to any license issued under this Act as the Department may deem proper, including the issuance of fines not to exceed \$10,000 for each violation, for any one or combination of the following causes:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act, or the rules adopted under this Act.

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United

States that is: (i) a felony; or (ii) a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining licenses.

(5) Professional incompetence.

(6) Aiding or assisting another person in violating any provision of this Act or its rules.

(7) Failing, within 60 days, to provide information in response to a written request made by the Department.

(8) Engaging in dishonorable, unethical, or unprofessional conduct, as defined by rule, of a character likely to deceive, defraud, or harm the public.

(9) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a midwife's inability to practice with reasonable judgment, skill, or safety.

(10) Discipline by another U.S. jurisdiction or foreign nation, if at least one of the grounds for discipline is the same or substantially equivalent to those set forth in this Section.

(11) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate or other form of compensation for any professional services not actually or personally rendered. Nothing in this paragraph affects any bona fide independent contractor or employment arrangements, including provisions for compensation, health insurance, pension, or other employment benefits, with persons or entities authorized under this Act for the provision of services within the scope of the licensee's practice under this Act.

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

(13) Abandonment of a patient.

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

(15) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

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

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) Gross negligence resulting in permanent injury or death of a patient.

(19) Employment of fraud, deception, or any unlawful means in applying for or securing a license as a licensed certified profession midwife.

(21) Immoral conduct in the commission of any act, including sexual abuse, sexual misconduct, or sexual exploitation related to the licensee's practice.

(22) Violation of the Health Care Worker Self-Referral Act.

(23) Practicing under a false or assumed name, except as provided by law.

(24) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, treatment, or remedy prescribed by him or her in the course of treatment.

(25) Allowing another person to use his or her license to practice.

(26) Prescribing, selling, administering, distributing, giving, or self-administering a drug classified as a controlled substance for purposes other than medically-accepted therapeutic purposes.

(27) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in a manner to exploit the patient for financial gain.

(28) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(29) Violating State or federal laws, rules, or regulations relating to controlled substances or other legend drugs or ephedra as defined in the Ephedra Prohibition Act.

(30) Failure to establish and maintain records of patient care and treatment as required by law.

(31) Attempting to subvert or cheat on the examination of the North American Registry of Midwives or its successor agency.

(32) Willfully or negligently violating the confidentiality between licensed certified professional profession midwives and patient, except as required by law.

(33) Willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act.

(34) Being named as an abuser in a verified report by the Department on Aging under the Adult Protective Services Act and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.

(35) Failure to report to the Department an adverse final action taken against him or her by another licensing jurisdiction of the United States or a foreign state or country, a peer review body, a health care institution, a professional society or association, a governmental agency, a law enforcement agency, or a court.

(36) Failure to provide copies of records of patient care or treatment, except as required by law.

(37) Failure of a licensee to report to the Department surrender by the licensee of a license or authorization to practice in another state or jurisdiction or current surrender by the licensee of membership professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action under this Section.

(38) Failing, within 90 days, to provide a response to a request for information in response to a written request made by the Department by certified or registered mail or by email to the email address of record.

(39) Failure to supervise a midwife assistant or student midwife including, but not limited to, allowing a midwife assistant or student midwife to exceed their scope.

(40) Failure to adequately inform a patient about their malpractice liability insurance coverage and the policy limits of the coverage.

(41) Failure to submit an annual report to the Department of Public Health.

(42) Failure to disclose active cardiopulmonary resuscitation certification or neonatal resuscitation provider status to clients.

(43) Engaging in one of the prohibited practices provided for in Section 85 of this Act.

(a-1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a certified professional midwife based solely upon the certified professional midwife authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(a-2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a certified professional midwife based upon the certified professional midwife's license being revoked or suspended, or the certified professional midwife being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the certified professional midwife violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the certified professional midwife if it occurred in Illinois.

(a-3) The conduct specified in subsection (b-1) or (b-2) shall not constitute grounds for suspension under Section 120.

(a-4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having authorized, recommended, aided, assisted, referred for, or otherwise participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(b) The Department may, without a hearing, refuse to issue or renew or may suspend the license of any person who fails to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay

any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Department of Revenue, until the requirements of any such tax Act are satisfied.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient, and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice.

(d) In enforcing this Section, the Department, upon a showing of a possible violation, may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, including a substance abuse or sexual offender evaluation, as required by and at the expense of the Department.

The Department shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing.

The Department may order the examining physician or any member of the multidisciplinary team to provide to the Department any and all records, including business records, that relate to the examination and evaluation, including any supplemental testing performed.

The Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning the mental or physical examination of the licensee or applicant. No information, report, record, or other documents in any way related to the examination shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee or applicant ordered to undergo an examination for the examining physician or any member of the multidisciplinary team to provide information, reports, records, or other documents or to provide any testimony regarding the examination and evaluation.

The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. However, that physician shall be present only to observe and may not interfere in any way with the examination.

Failure of an individual to submit to a mental or physical examination, when ordered, shall result in an automatic suspension of his or her license until the individual submits to the examination.

If the Department finds an individual unable to practice because of the reasons set forth in this Section, the Department may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

(e) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 102-683, eff. 10-1-22.)

Section 9-50. The Professional Counselor and Clinical Professional Counselor Licensing and Practice Act is amended by changing Section 80 as follows:

(225 ILCS 107/80)

(Section scheduled to be repealed on January 1, 2028)

Sec. 80. Grounds for discipline.

(a) The Department may refuse to issue, renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department deems appropriate, including the issuance of fines not to exceed \$10,000 for each violation, with regard to any license for any one or more of the following:

(1) Material misstatement in furnishing information to the Department or to any other State agency.

(2) Violations or negligent or intentional disregard of this Act or rules adopted under this Act.

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession.

(4) Fraud or any misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal of a license under this Act.

(5) Professional incompetence or gross negligence in the rendering of professional counseling or clinical professional counseling services.

(6) Malpractice.

(7) Aiding or assisting another person in violating any provision of this Act or any rules.

(8) Failing to provide information within 60 days in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public and violating the rules of professional conduct adopted by the Department.

(10) Habitual or excessive use or abuse of drugs as defined in law as controlled substances, alcohol, or any other substance which results in inability to practice with reasonable skill, judgment, or safety.

(11) Discipline by another jurisdiction, the District of Columbia, territory, county, or governmental agency, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate or other form of compensation for any professional service not actually rendered. Nothing in this paragraph (12) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this paragraph (12) shall be construed to require an employment arrangement to receive professional fees for services rendered.

(13) A finding by the Board that the licensee, after having the license placed on probationary status, has violated the terms of probation.

(14) Abandonment of a client.

(15) Willfully filing false reports relating to a licensee's practice, including but not limited to false records filed with federal or State agencies or departments.

(16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act and in matters pertaining to suspected abuse, neglect, financial exploitation, or self-neglect of adults with disabilities and older adults as set forth in the Adult Protective Services Act.

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) Physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of abilities and skills which results in the inability to practice the profession with reasonable judgment, skill, or safety.

(19) Solicitation of professional services by using false or misleading advertising.

(20) Allowing one's license under this Act to be used by an unlicensed person in violation of this Act.

(21) A finding that licensure has been applied for or obtained by fraudulent means.

(22) Practicing under a false or, except as provided by law, an assumed name.

(23) Gross and willful overcharging for professional services including filing statements for collection of fees or monies for which services are not rendered.

(24) Rendering professional counseling or clinical professional counseling services without a license or practicing outside the scope of a license.

(25) Clinical supervisors failing to adequately and responsibly monitor supervisees.

All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine.

(b) (Blank).

(b-1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a professional counselor or clinical professional counselor based solely upon the professional counselor or clinical professional counselor authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(b-2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a professional counselor or clinical professional counselor based upon the professional counselor's or clinical professional counselor's license being revoked or suspended, or the professional counselor or clinical professional counselor or clinical professional counselor or clinical professional counselor being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the professional counselor or clinical professional counselor or clinical professional counselor of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the professional counselor or clinical professional counselor if it occurred in Illinois.

(b-3) The conduct specified in subsection (b-1) or (b-2) shall not constitute grounds for suspension under Section 145.

(b-4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having authorized, recommended, aided, assisted, referred for, or otherwise participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(b-5) The Department may refuse to issue or may suspend without hearing, as provided for in the Code of Civil Procedure, the license of any person who fails to file a return, pay the tax, penalty, or interest shown in a filed return, or pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(b-10) In cases where the Department of Healthcare and Family Services has previously determined a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or

may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with item (5) of subsection (a) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(c) The determination by a court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code will result in an automatic suspension of his or her license. The suspension will end upon a finding by a court that the licensee is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the patient, and the recommendation of the Board to the Secretary that the licensee be allowed to resume professional practice.

(c-5) In enforcing this Act, the Department, upon a showing of a possible violation, may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall result in an automatic suspension without hearing.

All substance-related violations shall mandate an automatic substance abuse assessment. Failure to submit to an assessment by a licensed physician who is certified as an addictionist or an advanced practice registered nurse with specialty certification in addictions may be grounds for an automatic suspension.

If the Department finds an individual unable to practice or unfit for duty because of the reasons set forth in this subsection (c-5), the Department may require that individual to submit to a substance abuse evaluation or treatment by individuals or programs approved or designated by the Department, as a condition, term, or restriction for continued, restored, or renewed licensure to practice; or, in lieu of evaluation or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, restored, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

A person holding a license under this Act or who has applied for a license under this Act who, because of a physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department to submit to care, counseling, or treatment by physicians approved or designated by the Department as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice. Submission to care, counseling, or treatment as required by the Department shall not be considered discipline of a license. If the license refuses to enter into a care, counseling, or treatment agreement or fails to abide by the terms of the agreement, the Department may file a complaint to revoke, suspend, or otherwise discipline the license of the individual. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in disciplinary actions involving physical or mental illness or impairment.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

(d) (Blank).

(e) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

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[January 6, 2023]

(Source: P.A. 102-878, eff. 1-1-23.)

Section 9-55. The Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act is amended by changing Section 75 as follows:

(225 ILCS 130/75)

(Section scheduled to be repealed on January 1, 2024)

Sec. 75. Grounds for disciplinary action.

(a) The Department may refuse to issue, renew, or restore a registration, may revoke or suspend a registration, or may place on probation, reprimand, or take other disciplinary or non-disciplinary action with regard to a person registered under this Act, including but not limited to the imposition of fines not to exceed \$10,000 for each violation and the assessment of costs as provided for in Section 90, for any one or combination of the following causes:

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

(2) Violating a provision of this Act or rules adopted under this Act.

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor, an essential element of which is dischargy, or that is directly related to the practice of the profession.

(4) Fraud or misrepresentation in applying for, renewing, restoring, reinstating, or procuring a registration under this Act.

(5) Aiding or assisting another person in violating a provision of this Act or its rules.

(6) Failing to provide information within 60 days in response to a written request made by the Department.

(7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public, as defined by rule of the Department.

(8) Discipline by another United States jurisdiction, governmental agency, unit of government, or foreign nation, if at least one of the grounds for discipline is the same or substantially equivalent to those set forth in this Section.

(9) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered. Nothing in this paragraph (9) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the registrant's practice under this Act. Nothing in this paragraph (9) shall be construed to require an employment arrangement to receive professional fees for services rendered.

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

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

(12) Willfully making or signing a false statement, certificate, or affidavit to induce payment.

(13) Willfully failing to report an instance of suspected child abuse or neglect as required under the Abused and Neglected Child Reporting Act.

(14) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act and upon proof by clear and convincing evidence that the registrant has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(15) (Blank).

(16) Failure to report to the Department (A) any adverse final action taken against the registrant by another registering or licensing jurisdiction, government agency, law enforcement agency, or any court or (B) liability for conduct that would constitute grounds for action as set forth in this Section.

(17) Habitual or excessive use or abuse of drugs defined in law as controlled substances, alcohol, or any other substance that results in the inability to practice with reasonable judgment, skill, or safety.

(18) Physical or mental illness, including but not limited to deterioration through the aging process or loss of motor skills, which results in the inability to practice the profession for which he or she is registered with reasonable judgment, skill, or safety.

(19) Gross malpractice.

(20) Immoral conduct in the commission of an act related to the registrant's practice, including but not limited to sexual abuse, sexual misconduct, or sexual exploitation.

(21) Violation of the Health Care Worker Self-Referral Act.

(a-1) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a surgical assistant or surgical technologist based solely upon the surgical assistant or surgical technologist authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service, so long as the care was otherwise performed in accordance with the laws of this State, regardless of whether the patient was a resident of this State or another state.

(a-2) The Department shall not revoke, suspend, summarily suspend, place on prohibition, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice as a surgical assistant or surgical technologist based upon the surgical assistant's or surgical technologist's license being revoked or suspended, or the surgical assistant or surgical technologist being otherwise disciplined by any other state, if that revocation, suspension, or other form of discipline was based solely on the surgical assistant or surgical technologist violating another state's laws prohibiting the provision of, authorization of, recommendation of, aiding or assisting in, referring for, or participation in any health care service if that health care service as provided would have been lawful and consistent with the standards of conduct for the surgical assistant or surgical technologist if it occurred in Illinois.

(a-3) The conduct specified in subsection (b-1) or (b-2) shall not constitute grounds for suspension under Section 145.

(a-4) An applicant seeking licensure, certification, or authorization pursuant to this Act who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having authorized, recommended, aided, assisted, referred for, or otherwise participated in health care shall not be denied such licensure, certification, or authorization, unless the Department determines that such action would have constituted professional misconduct in this State; provided however, that nothing in this Section shall be construed as prohibiting the Department from evaluating the conduct of such applicant and making a determination regarding the licensure, certification, or authorization to practice a profession under this Act.

(b) The Department may refuse to issue or may suspend without hearing the registration of a person who fails to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay a final assessment of the tax, penalty, or interest as required by a tax Act administered by the Department of Revenue, until the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Department of Regulation Law of the Civil Administrative Code of Illinois.

(c) The determination by a circuit court that a registrant is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon (1) a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, (2) issuance of an order so finding and discharging the patient, and (3) filing of a petition for restoration demonstrating fitness to practice.

(d) (Blank).

(e) In cases where the Department of Healthcare and Family Services has previously determined a registrant or a potential registrant is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's registration or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with paragraph (5) of subsection (a) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(f) In enforcing this Section, the Department, upon a showing of a possible violation, may compel any individual registered under this Act or any individual who has applied for registration to submit to a mental or physical examination and evaluation, or both, that may include a substance abuse or sexual offender evaluation, at the expense of the Department. The Department shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination and evaluation, or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed chiropractic physicians, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination and evaluation pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing, or neuropsychological testing.

The Department may order the examining physician or any member of the multidisciplinary team to provide to the Department any and all records, including business records, that relate to the examination and evaluation, including any supplemental testing performed. The Department may order the examination and evaluation of the registrant or applicant, including testimony concerning any supplemental testing or documents relating to the examination and evaluation. No information, report, record, or other documents in any way related to the examination and evaluation shall be excluded by reason of any common law or statutory privilege relating to communication between the registrant or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the registrant or applicant or dered to undergo an evaluation and examination for the examining physician or any member of the multidisciplinary team. No authorization is necessary from the registrant or applicant or dered to undergo an evaluation and evaluation. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination.

Failure of any individual to submit to mental or physical examination and evaluation, or both, when directed, shall result in an automatic suspension without a hearing until such time as the individual submits to the examination. If the Department finds a registrant unable to practice because of the reasons set forth in this Section, the Department shall require such registrant to submit to care, counseling, or treatment by physicians approved or designated by the Department as a condition for continued, reinstated, or renewed registration.

When the Secretary immediately suspends a registration under this Section, a hearing upon such person's registration must be convened by the Department within 15 days after such suspension and completed without appreciable delay. The Department shall have the authority to review the registrant's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

Individuals registered under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department that they can resume practice in compliance with acceptable and prevailing standards under the provisions of their registration.

(g) All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine or in accordance with the terms set forth in the order imposing the fine.

(h) The Department may adopt rules to implement the changes made by this amendatory Act of the 102nd General Assembly.

(Source: P.A. 100-872, eff. 8-14-18.)

Article 10

Section 10-5. The Medical Practice Act of 1987 is amended by changing Section 2 and by adding Section 66 as follows:

(225 ILCS 60/2) (from Ch. 111, par. 4400-2)

(Section scheduled to be repealed on January 1, 2027)

Sec. 2. Definitions. For purposes of this Act, the following definitions shall have the following meanings, except where the context requires otherwise:

"Act" means the Medical Practice Act of 1987.

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit.

"Chiropractic physician" means a person licensed to treat human ailments without the use of drugs and without operative surgery. Nothing in this Act shall be construed to prohibit a chiropractic physician from providing advice regarding the use of non-prescription products or from administering atmospheric oxygen. Nothing in this Act shall be construed to authorize a chiropractic physician to prescribe drugs.

"Department" means the Department of Financial and Professional Regulation.

"Disciplinary action" means revocation, suspension, probation, supervision, practice modification, reprimand, required education, fines or any other action taken by the Department against a person holding a license.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

"Final determination" means the governing body's final action taken under the procedure followed by a health care institution, or professional association or society, against any person licensed under the Act in accordance with the bylaws or rules and regulations of such health care institution, or professional association or society.

"Fund" means the Illinois State Medical Disciplinary Fund.

"Impaired" means the inability to practice medicine with reasonable skill and safety due to physical or mental disabilities as evidenced by a written determination or written consent based on clinical evidence including deterioration through the aging process or loss of motor skill, or abuse of drugs or alcohol, of sufficient degree to diminish a person's ability to deliver competent patient care.

"Medical Board" means the Illinois State Medical Board.

"Physician" means a person licensed under the Medical Practice Act to practice medicine in all of its branches or a chiropractic physician.

"Professional association" means an association or society of persons licensed under this Act, and operating within the State of Illinois, including but not limited to, medical societies, osteopathic organizations, and chiropractic organizations, but this term shall not be deemed to include hospital medical staffs.

"Program of care, counseling, or treatment" means a written schedule of organized treatment, care, counseling, activities, or education, satisfactory to the Medical Board, designed for the purpose of restoring an impaired person to a condition whereby the impaired person can practice medicine with reasonable skill and safety of a sufficient degree to deliver competent patient care.

"Reinstate" means to change the status of a license or permit from inactive or nonrenewed status to active status.

"Restore" means to remove an encumbrance from a license or permit due to probation, suspension, or revocation.

"Secretary" means the Secretary of Financial and Professional Regulation.

(Source: P.A. 102-20, eff. 1-1-22.)

(225 ILCS 60/66 new)

Sec. 66. Temporary permit for health care.

(a) The Department may issue a temporary permit authorizing the practice in this State of health care, to an applicant who is licensed to practice medicine in another state, if all of the following apply:

(1) The Department determines that the applicant's services will improve the welfare of Illinois residents and non-residents requiring health care services.

(2) The applicant has graduated from a medical program officially recognized by the jurisdiction in which it is located for the purpose of receiving a license to practice medicine in all of its branches, and maintains an equivalent authorization to practice medicine in good standing in the applicant's current state or territory of licensure; and the applicant can furnish the Department with a certified letter upon request from that jurisdiction attesting to the fact that the applicant has no pending action or violations against the applicant's license.

The Department will not consider a physician license being revoked or otherwise disciplined by any state or territory based solely on the physician providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service that is unlawful or prohibited in that state or territory, if the provision of, authorization of, or participation in that health care, medical service, or procedure related to any health care service is not unlawful or prohibited in this State.

(3) The applicant has sufficient training and possesses the appropriate core competencies to provide health care services, and is physically, mentally, and professionally capable of practicing

medicine with reasonable judgment, skill, and safety and in accordance with applicable standards of care.

(4) The applicant will be working pursuant to an agreement with a sponsoring licensed hospital, medical office, clinic, or other medical facility providing abortion or other health care services. Such agreement shall be executed by an authorized representative of the licensed hospital, medical office, clinic, or other medical facility, certifying that the physician holds an active license and is in good standing in the state in which the physician is licensed. If an applicant for a temporary permit has been previously disciplined by another jurisdiction, except as described in paragraph (2), further review may be conducted pursuant to the Civil Administrative Code and the Medical Practice Act of 1987. The application shall include the physician's name, contact information, state of licensure, and license number.

(5) Payment of a \$75 fee.

The sponsoring licensed hospital, medical office, clinic, or other medical facility engaged in the agreement with the applicant shall notify the Department should the applicant at any point leave or become separate from the sponsor.

The Department may adopt rules pursuant to this Section.

(b) A temporary permit under this Section shall expire 2 years after the date of issuance. The temporary permit may be renewed for a \$45 fee for an additional 2 years. A holder of a temporary permit may only renew one time.

(c) The temporary permit shall only permit the holder to practice medicine within the scope of providing health care services at the location or locations specified on the permit.

(d) An application for the temporary permit shall be made to the Department, in writing, on forms prescribed by the Department, and shall be accompanied by a non-refundable fee of \$75.

(e) An applicant for temporary permit may be requested to appear before the Board to respond to questions concerning the applicant's qualifications to receive the permit. An applicant's refusal to appear before the Illinois State Medical Board may be grounds for denial of the application by the Department.

(f) The Secretary may summarily cancel any temporary permit issued pursuant to this Section, without a hearing, if the Secretary finds that evidence in the Secretary's possession indicates that a permit holder's continuation in practice would constitute an imminent danger to the public or violate any provision of the Medical Practice Act of 1987 or its rules.

If the Secretary summarily cancels a temporary permit issued pursuant to this Section or Act, the permit holder may petition the Department for a hearing in accordance with the provisions of Section 43 to restore the permit holder's permit, unless the permit holder has exceeded the permit holder's renewal limit.

(g) In addition to terminating any temporary permit issued pursuant to this Section or Act, the Department may issue a monetary penalty not to exceed \$10,000 upon the temporary permit holder and may notify any state in which the temporary permit holder has been issued a permit that the temporary permit holder's Illinois permit has been terminated and the reasons for the termination. The monetary penalty shall be paid within 60 days after the effective date of the order imposing the penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record. It is the intent of the General Assembly that a permit issued pursuant to this Section shall be considered a privilege and not a property right.

(h) While working in Illinois, all temporary permit holders are subject to all statutory and regulatory requirements of the Medical Practice Act of 1987 in the same manner as a licensee. Failure to adhere to all statutory and regulatory requirements may result in revocation or other discipline of the temporary permit.

(i) If the Department becomes aware of a violation occurring at the licensed hospital, medical office, clinic, or other medical facility, the Department shall notify the Department of Public Health.

(j) The Department may adopt emergency rules pursuant to this Section. The General Assembly finds that the adoption of rules to implement a temporary permit for health care services is deemed an emergency and necessary for the public interest, safety, and welfare.

Section 10-10. The Nurse Practice Act is amended by adding Sections 65-11 and 65-11.5 as follows: (225 ILCS 65/65-11 new)

Sec. 65-11. Temporary permit for advanced practice registered nurses for health care.

(a) The Department may issue a temporary permit to advanced practice registered nurses authorizing the practice, with a collaborating physician, in this State of health care, to an applicant who is licensed to practice as an advanced practice registered nurse in another state, if all of the following apply:

(1) The Department determines that the applicant's services will improve the welfare of Illinois residents and non-residents requiring health care services.

(2) The applicant has obtained a graduate degree appropriate for national certification in a clinical advanced practice registered nursing specialty or a graduate degree or post-master's certificate from a graduate level program in a clinical advanced practice registered nursing specialty; the applicant has submitted verification of licensure status in good standing in the applicant's current state or territory of licensure; and the applicant can furnish the Department with a certified letter upon request from that jurisdiction attesting to the fact that the applicant has no pending action or violations against the applicant's license.

The Department will not consider an advanced practice registered nurse's license being revoked or otherwise disciplined by any state or territory based solely on the advanced practice registered nurse providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service that is unlawful or prohibited in that state or territory, if the provision of, authorization of, or participation in that health care, medical service, or procedure related to any health care service is not unlawful or prohibited in this State.

(3) The applicant has sufficient training and possesses the appropriate core competencies to provide health care services, and is physically, mentally, and professionally capable of practicing as an advanced practice registered nurse with reasonable judgment, skill, and safety and in accordance with applicable standards of care.

(4) The applicant must meet the written collaborating agreement requirements under Section 65-35.

(5) The applicant will be working pursuant to an agreement with a sponsoring licensed hospital, medical office, clinic, or other medical facility providing health care services. Such agreement shall be executed by an authorized representative of the licensed hospital, medical office, clinic, or other medical facility, certifying that the advanced practice registered nurse holds an active license and is in good standing in the state in which the advanced practice registered nurse is licensed. If an applicant for a temporary permit has been previously disciplined by another jurisdiction, except as described in paragraph (2), further review may be conducted pursuant to the Civil Administrative Code and the Nurse Practice Act. The application shall include the advanced practice registered nurse's name, contact information, state of licensure, and license number.

(6) Payment of a \$75 fee.

The sponsoring licensed hospital, medical office, clinic, or other medical facility engaged in the agreement with the applicant shall notify the Department should the applicant at any point leave or become separate from the sponsor.

The Department may adopt rules to carry out this Section.

(b) A temporary permit under this Section shall expire 2 years after the date of issuance. The temporary permit may be renewed for a \$45 fee for an additional 2 years. A holder of a temporary permit may only renew one time.

(c) The temporary permit shall only permit the holder to practice as an advanced practice registered nurse with a collaborating physician who provides health care services at the location or locations specified on the permit.

(d) An application for the temporary permit shall be made to the Department, in writing, on forms prescribed by the Department, and shall be accompanied by a non-refundable fee of \$75.

(e) An applicant for temporary permit may be requested to appear before the Board to respond to questions concerning the applicant's qualifications to receive the permit. An applicant's refusal to appear before the Board of Nursing may be grounds for denial of the application by the Department.

(f) The Secretary may summarily cancel any temporary permit issued pursuant to this Section, without a hearing, if the Secretary finds that evidence in the Secretary's possession indicates that a permit holder's continuation in practice would constitute an imminent danger to the public or violate any provision of the Nurse Practice Act or its rules.

If the Secretary summarily cancels a temporary permit issued pursuant to this Section or Act, the permit holder may petition the Department for a hearing in accordance with the provisions of Section 70-125 to restore the permit holder's permit, unless the permit holder has exceeded the permit holder's renewal limit.

(g) In addition to terminating any temporary permit issued pursuant to this Section or Act, the Department may issue a monetary penalty not to exceed \$10,000 upon the temporary permit holder and may

notify any state in which the temporary permit holder has been issued a permit that the temporary permit holder's Illinois permit has been terminated and the reasons for the termination. The monetary penalty shall be paid within 60 days after the effective date of the order imposing the penalty. The order shall constitute a judgment and may be filed, and execution had thereon in the same manner as any judgment from any court of record. It is the intent of the General Assembly that a permit issued pursuant to this Section shall be considered a privilege and not a property right.

(h) While working in Illinois, all temporary permit holders are subject to all statutory and regulatory requirements of the Nurse Practice Act in the same manner as a licensee. Failure to adhere to all statutory and regulatory requirements may result in revocation or other discipline of the temporary permit.

(i) If the Department becomes aware of a violation occurring at the licensed hospital, medical office, clinic, or other medical facility, the Department shall notify the Department of Public Health.

(j) The Department may adopt emergency rules pursuant to this Section. The General Assembly finds that the adoption of rules to implement a temporary permit for health care services is deemed an emergency and necessary for the public interest, safety, and welfare.

(225 ILCS 65/65-11.5 new)

Sec. 65-11.5. Temporary permit for full practice advanced practice registered nurses for health care.

(a) The Department may issue a temporary permit to full practice advanced practice registered nurses authorizing the practice in this State of health care, to an applicant who is licensed to practice as an advanced practice registered nurse in another state, if all of the following apply:

(1) The Department determines that the applicant's services will improve the welfare of Illinois residents and non-residents requiring health care services.

(2) The applicant has obtained a graduate degree appropriate for national certification in a clinical advanced practice registered nursing specialty or a graduate degree or post-master's certificate from a graduate level program in a clinical advanced practice registered nursing specialty; the applicant is certified as a nurse practitioner, nurse midwife, or clinical nurse specialist; the applicant has submitted verification of licensure status in good standing in the applicant's current state or territory of licensure; and the applicant can furnish the Department with a certified letter upon request from that jurisdiction attesting to the fact that the applicant has no pending action or violations against the applicant's license.

The Department will not consider an advanced practice registered nurse's license being revoked or otherwise disciplined by any state or territory for the provision of, authorization of, or participation in any health care, medical service, or procedure related to an abortion on the basis that such health care, medical service, or procedure related to an abortion is unlawful or prohibited in that state or territory, if the provision of, authorization of, or participation in that health care, medical service, or procedure related to an abortion is not unlawful or prohibited in this State.

(3) The applicant has sufficient training and possesses the appropriate core competencies to provide health care services, and is physically, mentally, and professionally capable of practicing as an advanced practice registered nurse with reasonable judgment, skill, and safety and in accordance with applicable standards of care.

(4) The applicant will be working pursuant to an agreement with a sponsoring licensed hospital, medical office, clinic, or other medical facility providing health care services. Such agreement shall be executed by an authorized representative of the licensed hospital, medical office, clinic, or other medical facility, certifying that the advanced practice registered nurse holds an active license and is in good standing in the state in which advanced practice registered nurse is licensed. If an applicant for a temporary permit has been previously disciplined by another jurisdiction, except as described in paragraph (2), further review may be conducted pursuant to the Civil Administrative Code and the Nurse Practice Act. The application shall include the advanced practice registered nurse's name, contact information, state of licensure, and license number.

(5) Payment of a \$75 fee.

The sponsoring licensed hospital, medical office, clinic, or other medical facility engaged in the agreement with the applicant shall notify the Department should the applicant at any point leave or become separate from the sponsor.

The Department may adopt rules to carry out this Section.

(b) A temporary permit under this Section shall expire 2 years after the date of issuance. The temporary permit may be renewed for a \$45 fee for an additional 2 years. A holder of a temporary permit may only renew one time.

(c) The temporary permit shall only permit the holder to practice as a full practice advanced practice registered nurse within the scope of providing health care services at the location or locations specified on the permit.

(d) An application for the temporary permit shall be made to the Department, in writing, on forms prescribed by the Department, and shall be accompanied by a non-refundable fee of \$75.

(e) An applicant for temporary permit may be requested to appear before the Board to respond to questions concerning the applicant's qualifications to receive the permit. An applicant's refusal to appear before the Board of Nursing may be grounds for denial of the application by the Department.

(f) The Secretary may summarily cancel any temporary permit issued pursuant to this Section, without a hearing, if the Secretary finds that evidence in the Secretary's possession indicates that a permit holder's continuation in practice would constitute an imminent danger to the public or violate any provision of the Nurse Practice Act or its rules.

If the Secretary summarily cancels a temporary permit issued pursuant to this Section or Act, the permit holder may petition the Department for a hearing in accordance with the provisions of Section 70-125 to restore the permit holder's permit, unless the permit holder has exceeded the permit holder's renewal limit.

(g) In addition to terminating any temporary permit issued pursuant to this Section or Act, the Department may issue a monetary penalty not to exceed \$10,000 upon the temporary permit holder and may notify any state in which the temporary permit holder has been issued a permit that the temporary permit holder's Illinois permit has been terminated and the reasons for the termination. The monetary penalty shall be paid within 60 days after the effective date of the order imposing the penalty. The order shall constitute a judgment and may be filed, and execution had thereon in the same manner as any judgment from any court of record. It is the intent of the General Assembly that a permit issued pursuant to this Section shall be considered a privilege and not a property right.

(h) While working in Illinois, all temporary permit holders are subject to all statutory and regulatory requirements of the Nurse Practice Act in the same manner as a licensee. Failure to adhere to all statutory and regulatory requirements may result in revocation or other discipline of the temporary permit.

(i) If the Department becomes aware of a violation occurring at the licensed hospital, medical office, clinic, or other medical facility, the Department shall notify the Department of Public Health.

(j) The Department may adopt emergency rules pursuant to this Section. The General Assembly finds that the adoption of rules to implement a temporary permit for health care services is deemed an emergency and necessary for the public interest, safety, and welfare.

Section 10-15. The Physician Assistant Practice Act of 1987 is amended by changing Sections 4, 21, 22.2, 22.3, 22.5, 22.6, 22.7, 22.8, 22.9, and 22.10 and by adding Section 9.7 as follows:

(225 ILCS 95/4) (from Ch. 111, par. 4604)

(Section scheduled to be repealed on January 1, 2028)

Sec. 4. Definitions. In this Act:

1. "Department" means the Department of Financial and Professional Regulation.

2. "Secretary" means the Secretary of Financial and Professional Regulation.

3. "Physician assistant" means any person not holding an active license or permit issued by the Department pursuant to the Medical Practice Act of 1987 who has been certified as a physician assistant by the National Commission on the Certification of Physician Assistants or equivalent successor agency and performs procedures in collaboration with a physician as defined in this Act. A physician assistant may perform such procedures within the specialty of the collaborating physician, except that such physician shall exercise such direction, collaboration, and control over such physician assistants as will assure that patients shall receive quality medical care. Physician assistants shall be capable of performing a variety of tasks within the specialty of medical care in collaboration with a physician. Collaboration with the physician assistant shall not be construed to necessarily require the personal presence of the collaborating physician at all times at the place where services are rendered, as long as there is communication available for consultation by radio, telephone or telecommunications within established guidelines as determined by the physician/physician assistant team. The collaborating physician may delegate tasks and duties to the physician assistant. Delegated tasks or duties shall be consistent with physician assistant education, training, and experience. The delegated tasks or duties shall be specific to the practice setting and shall be implemented and reviewed under a written collaborative agreement established by the physician or physician/physician assistant team. A physician assistant, acting as an agent of the physician, shall be

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permitted to transmit the collaborating physician's orders as determined by the institution's by-laws, policies, procedures, or job description within which the physician/physician assistant team practices. Physician assistants shall practice only in accordance with a written collaborative agreement.

Any person who holds an active license or permit issued pursuant to the Medical Practice Act of 1987 shall have that license automatically placed into inactive status upon issuance of a physician assistant license. Any person who holds an active license as a physician assistant who is issued a license or permit pursuant to the Medical Practice Act of 1987 shall have his or her physician assistant license automatically placed into inactive status.

3.5. "Physician assistant practice" means the performance of procedures within the specialty of the collaborating physician. Physician assistants shall be capable of performing a variety of tasks within the specialty of medical care of the collaborating physician. Collaboration with the physician assistant shall not be construed to necessarily require the personal presence of the collaborating physician at all times at the place where services are rendered, as long as there is communication available for consultation by radio, telephone, telecommunications, or electronic communications. The collaborating physician may delegate tasks and duties to the physician assistant. Delegated tasks or duties shall be specific to the practice setting and shall be implemented and reviewed under a written collaborative agreement established by the physician or physician/sphysician assistant team. A physician assistant shall be permitted to transmit the collaborating physician/sphysician physician/sphysician assistant team practices. Physician assistant shall practice only in accordance with a written collaborative agreement, except as provided in Section 7.5 of this Act.

4. "Board" means the Medical Licensing Board constituted under the Medical Practice Act of 1987.

5. (Blank). "Disciplinary Board" means the Medical Disciplinary Board constituted under the Medical Practice Act of 1987.

6. "Physician" means a person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987.

7. "Collaborating physician" means the physician who, within his or her specialty and expertise, may delegate a variety of tasks and procedures to the physician assistant. Such tasks and procedures shall be delegated in accordance with a written collaborative agreement.

8. (Blank).

9. "Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit.

10. "Hospital affiliate" means a corporation, partnership, joint venture, limited liability company, or similar organization, other than a hospital, that is devoted primarily to the provision, management, or support of health care services and that directly or indirectly controls, is controlled by, or is under common control of the hospital. For the purposes of this definition, "control" means having at least an equal or a majority ownership or membership interest. A hospital affiliate shall be 100% owned or controlled by any combination of hospitals, their parent corporations, or physicians licensed to practice medicine in all its branches in Illinois. "Hospital affiliate" does not include a health maintenance organization regulated under the Health Maintenance Organization Act.

11. "Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

(Source: P.A. 99-330, eff. 1-1-16; 100-453, eff. 8-25-17.)

(225 ILCS 95/9.7 new)

Sec. 9.7. Temporary permit for health care.

(a) The Department may issue a temporary permit authorizing the practice, with a collaborating physician, in this State, of health care to an applicant who is licensed to practice as a physician assistant in another state, if all of the following apply:

(1) The Department determines that the applicant's services will improve the welfare of Illinois residents and non-residents requiring health care services.

(2)The applicant has obtained certification by the National Commission on Certification of Physician Assistants or its successor agency; the applicant has submitted verification of licensure status in good standing in the applicant's current state or territory of licensure; and the applicant can furnish the Department with a certified letter upon request from that jurisdiction attesting to the fact that the applicant has no pending action or violations against the applicant's license;

The Department will not consider a physician assistant's license being revoked or otherwise disciplined by any state or territory based solely on the physician assistant providing, authorizing, recommending, aiding, assisting, referring for, or otherwise participating in any health care service that is unlawful or prohibited in that state or territory, if the provision of, authorization of, or participation in that health care, medical service, or procedure related to any health care service is not unlawful or prohibited in this State.

(3) The applicant has sufficient training and possesses the appropriate core competencies to provide health care services, and is physically, mentally, and professionally capable of practicing as a physician assistant with reasonable judgment, skill, and safety and in accordance with applicable standards of care.

(4)The applicant must meet the written collaborative agreement requirements under subsection (a) of Section 7.5.

(5) The applicant will be working pursuant to an agreement with a sponsoring licensed hospital, medical office, clinic, or other medical facility providing health care services. Such agreement shall be executed by an authorized representative of the licensed hospital, medical office, clinic, or other medical facility, certifying that the physician assistant holds an active license and is in good standing in the state in which the physician assistant is licensed. If an applicant for a temporary permit has been previously disciplined by another jurisdiction, except as described in paragraph (2), further review may be conducted pursuant to the Civil Administrative Code and the Physician Assistant Practice Act of 1987. The application shall include the physician assistant's name, contact information, state of licensure, and license number.

(6) Payment of a \$75 fee.

(6)The sponsoring licensed hospital, medical office, clinic, or other medical facility engaged in the agreement with the applicant shall notify the Department should the applicant at any point leave or become separate from the sponsor.

The Department may adopt rules to carry out this Section.

(b) A temporary permit under this Section shall expire 2 years after the date of issuance. The temporary permit may be renewed for a \$45 fee for an additional 2 years. A holder of a temporary permit may only renew one time.

(c) The temporary permit shall only permit the holder to practice as a physician assistant with a collaborating physician who provides health care services at the location or locations specified on the permit.

(d) An application for the temporary permit shall be made to the Department, in writing, on forms prescribed by the Department, and shall be accompanied by a non-refundable fee of \$75.

(e) An applicant for a temporary permit may be requested to appear before the Board to respond to questions concerning the applicant's qualifications to receive the permit. An applicant's refusal to appear before the Board may be grounds for denial of the application by the Department.

(f) The Secretary may summarily cancel any temporary permit issued pursuant to this Section, without a hearing, if the Secretary finds that evidence in the Secretary's possession indicates that a permit holder's continuation in practice would constitute an imminent danger to the public or violate any provision of the Physician Assistant Practice Act of 1987 or its rules.

If the Secretary summarily cancels a temporary permit issued pursuant to this Section or Act, the permit holder may petition the Department for a hearing in accordance with the provisions of Section 22.11 to restore the permit holder's permit, unless the permit holder has exceeded permit holder's renewal limit.

(g) In addition to terminating any temporary permit issued pursuant to this Section or Act, the Department may issue a monetary penalty not to exceed \$10,000 upon the temporary permit holder and may notify any state in which the temporary permit holder has been issued a permit that the temporary permit holder's Illinois permit has been terminated and the reasons for that termination. The monetary penalty shall be paid within 60 days after the effective date of the order imposing the penalty. The order shall constitute a judgment and may be filed, and execution had thereon in the same manner as any judgment from any court of record. It is the intent of the General Assembly that a permit issued pursuant to this Section shall be considered a privilege and not a property right.

(h) While working in Illinois, all temporary permit holders are subject to all statutory and regulatory requirements of the Physician Assistant Practice Act of 1987 in the same manner as a licensee. Failure to adhere to all statutory and regulatory requirements may result in revocation or other discipline of the temporary permit.

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(i)If the Department becomes aware of a violation occurring at the licensed hospital, medical office, clinic, or other medical facility, the Department shall notify the Department of Public Health.

(j)The Department may adopt emergency rules pursuant to this Section. The General Assembly finds that the adoption of rules to implement a temporary permit for reproductive health is deemed an emergency and necessary for the public interest, safety, and welfare.

(225 ILCS 95/21) (from Ch. 111, par. 4621)

(Section scheduled to be repealed on January 1, 2028)

Sec. 21. Grounds for disciplinary action.

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action with regard to any license issued under this Act as the Department may deem proper, including the issuance of fines not to exceed \$10,000 for each violation, for any one or combination of the following causes:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act, or the rules adopted under this Act.

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States that is: (i) a felony; or (ii) a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining licenses.

(5) Professional incompetence.

(6) Aiding or assisting another person in violating any provision of this Act or its rules.

(7) Failing, within 60 days, to provide information in response to a written request made by the Department.

(8) Engaging in dishonorable, unethical, or unprofessional conduct, as defined by rule, of a character likely to deceive, defraud, or harm the public.

(9) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a physician assistant's inability to practice with reasonable judgment, skill, or safety.

(10) Discipline by another U.S. jurisdiction or foreign nation, if at least one of the grounds for discipline is the same or substantially equivalent to those set forth in this Section.

(11) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate or other form of compensation for any professional services not actually or personally rendered. Nothing in this paragraph (11) affects any bona fide independent contractor or employment arrangements, which may include provisions for compensation, health insurance, pension, or other employment benefits, with persons or entities authorized under this Act for the provision of services within the scope of the licensee's practice under this Act.

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

(13) Abandonment of a patient.

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

(15) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

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

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) (Blank).

(19) Gross negligence resulting in permanent injury or death of a patient.

(20) Employment of fraud, deception or any unlawful means in applying for or securing a license as a physician assistant.

(21) Exceeding the authority delegated to him or her by his or her collaborating physician in a written collaborative agreement.

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

(23) Violation of the Health Care Worker Self-Referral Act.

(24) Practicing under a false or assumed name, except as provided by law.

(25) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, treatment, or remedy prescribed by him or her in the course of treatment.

(26) Allowing another person to use his or her license to practice.

(27) Prescribing, selling, administering, distributing, giving, or self-administering a drug classified as a controlled substance for other than medically accepted therapeutic purposes.

(28) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in a manner to exploit the patient for financial gain.

(29) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(30) Violating State or federal laws or regulations relating to controlled substances or other legend drugs or ephedra as defined in the Ephedra Prohibition Act.

(31) Exceeding the prescriptive authority delegated by the collaborating physician or violating the written collaborative agreement delegating that authority.

(32) Practicing without providing to the Department a notice of collaboration or delegation of prescriptive authority.

(33) Failure to establish and maintain records of patient care and treatment as required by law.

(34) Attempting to subvert or cheat on the examination of the National Commission on Certification of Physician Assistants or its successor agency.

(35) Willfully or negligently violating the confidentiality between physician assistant and patient, except as required by law.

(36) Willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act.

(37) Being named as an abuser in a verified report by the Department on Aging under the Adult Protective Services Act and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.

(38) Failure to report to the Department an adverse final action taken against him or her by another licensing jurisdiction of the United States or a foreign state or country, a peer review body, a health care institution, a professional society or association, a governmental agency, a law enforcement agency, or a court acts or conduct similar to acts or conduct that would constitute grounds for action under this Section.

(39) Failure to provide copies of records of patient care or treatment, except as required by law.

(40) Entering into an excessive number of written collaborative agreements with licensed physicians resulting in an inability to adequately collaborate.

(41) Repeated failure to adequately collaborate with a collaborating physician.

(42) Violating the Compassionate Use of Medical Cannabis Program Act.

(b) The Department may, without a hearing, refuse to issue or renew or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient, and upon the recommendation of the Disciplinary Board to the Secretary that the licensee be allowed to resume his or her practice.

(d) In enforcing this Section, the Department upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, which may include a substance abuse or sexual offender evaluation, as required by and at the expense of the Department.

The Department shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any testing, or neuropsychological testing.

The Department may order the examining physician or any member of the multidisciplinary team to provide to the Department any and all records, including business records, that relate to the examination and evaluation, including any supplemental testing performed.

The Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning the mental or physical examination of the licensee or applicant. No information, report, record, or other documents in any way related to the examination shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee or applicant ordered to undergo an examination for the examining physician or any member of the multidisciplinary team to provide information, reports, records, or other documents or to provide any testimony regarding the examination and evaluation.

The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. However, that physician shall be present only to observe and may not interfere in any way with the examination.

Failure of an individual to submit to a mental or physical examination, when ordered, shall result in an automatic suspension of his or her license until the individual submits to the examination.

If the Department finds an individual unable to practice because of the reasons set forth in this Section, the Department may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

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

(f) Members of the Board and the Disciplinary Board shall be indemnified by the State for any actions occurring within the scope of services on the Disciplinary Board or Board, done in good faith and not willful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were willful and wanton.

If the Attorney General declines representation, the member has the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were willful and wanton. The member must notify the Attorney General within 7 days after receipt of notice of the initiation of any action involving services of the Disciplinary Board. Failure to so notify the Attorney General constitutes an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine, within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(Source: P.A. 101-363, eff. 8-9-19; 102-558, eff. 8-20-21.)

(225 ILCS 95/22.2) (from Ch. 111, par. 4622.2)

(Section scheduled to be repealed on January 1, 2028)

Sec. 22.2. Investigation; notice; hearing. The Department may investigate the actions of any applicant or of any person or persons holding or claiming to hold a license. The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license, at least 30 days prior to the date set for the hearing, notify the applicant or licensee in writing of any charges made and the time and place for a hearing of the charges before the Disciplinary Board, direct him or her to file his or her written answer thereto to the Disciplinary Board under oath within 20 days after the service on him or her of such notice and inform him or her that if he or she fails to file such answer default will be taken against him or her and his or her license may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of his or her practice, as the Department may deem proper taken with regard thereto. Written or electronic notice may be served by personal delivery, email, or mail to the applicant or licensee at his or her address of record or email address of record. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence, and argument as may be pertinent to the charges or to the defense thereto. The Department may continue such hearing from time to time. In case the applicant or licensee, after receiving notice, fails to file an answer, his or her license may in the discretion of the Secretary, having received first the recommendation of the Disciplinary Board, be suspended, revoked, placed on probationary status, or the Secretary may take whatever disciplinary action as he or she may deem proper, including limiting the scope, nature, or extent of such person's practice, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

(Source: P.A. 100-453, eff. 8-25-17.)

(225 ILCS 95/22.3) (from Ch. 111, par. 4622.3)

(Section scheduled to be repealed on January 1, 2028)

Sec. 22.3. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue, renew or discipline of a license. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Disciplinary Board or hearing officer and orders of the Department shall be the record of such proceeding.

(Source: P.A. 85-981.)

(225 ILCS 95/22.5) (from Ch. 111, par. 4622.5)

(Section scheduled to be repealed on January 1, 2028)

Sec. 22.5. Subpoena power; oaths. The Department shall have power to subpoena and bring before it any person and to take testimony either orally or by deposition or both, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in civil cases in circuit courts of this State.

The Secretary, the designated hearing officer, and any member of the Disciplinary Board designated by the Secretary shall each have power to administer oaths to witnesses at any hearing which the Department is authorized to conduct under this Act and any other oaths required or authorized to be administered by the Department under this Act.

(Source: P.A. 95-703, eff. 12-31-07.)

(225 ILCS 95/22.6) (from Ch. 111, par. 4622.6)

(Section scheduled to be repealed on January 1, 2028)

Sec. 22.6. At the conclusion of the hearing, the Disciplinary Board shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Disciplinary Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary.

The report of findings of fact, conclusions of law, and recommendation of the Disciplinary Board shall be the basis for the Department's order or refusal or for the granting of a license or permit. If the Secretary disagrees in any regard with the report of the Disciplinary Board, the Secretary may issue an order in contravention thereof. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for the violation of this Act.

(Source: P.A. 100-453, eff. 8-25-17.)

(225 ILCS 95/22.7) (from Ch. 111, par. 4622.7)

(Section scheduled to be repealed on January 1, 2028)

Sec. 22.7. Hearing officer. Notwithstanding the provisions of Section 22.2 of this Act, the Secretary shall have the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew, or for discipline of, a license. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Disciplinary Board and the Secretary. The Disciplinary Board shall have 60 days from receipt of the report to review the report of the hearing officer and present their findings of fact, conclusions of law, and recommendations to the Secretary. If the Disciplinary Board fails to present its report within the 60-day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary may issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order. Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners. If the Secretary disagrees in any regard with the report of the Disciplinary Board or hearing officer, he or she may issue an order in contravention thereof.

(Source: P.A. 100-453, eff. 8-25-17.)

(225 ILCS 95/22.8) (from Ch. 111, par. 4622.8)

(Section scheduled to be repealed on January 1, 2028)

Sec. 22.8. In any case involving the refusal to issue, renew or discipline of a license, a copy of the Disciplinary Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial the Secretary may enter an order in accordance with recommendations of the Disciplinary Board except as provided in Section 22.6 or 22.7 of this Act. If the respondent shall order from the reporting service, and pay for a transcript of the record within the time for filing a motion for rehearing, the 20 day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

(Source: P.A. 95-703, eff. 12-31-07.)

(225 ILCS 95/22.9) (from Ch. 111, par. 4622.9)

(Section scheduled to be repealed on January 1, 2028)

Sec. 22.9. Whenever the Secretary is satisfied that substantial justice has not been done in the revocation, suspension or refusal to issue or renew a license, the Secretary may order a rehearing by the same or another hearing officer or Disciplinary Board.

(Source: P.A. 95-703, eff. 12-31-07.)

(225 ILCS 95/22.10) (from Ch. 111, par. 4622.10)

(Section scheduled to be repealed on January 1, 2028)

Sec. 22.10. Order or certified copy; prima facie proof. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, shall be prima facie proof that:

(a) the signature is the genuine signature of the Secretary;

(b) the Secretary is duly appointed and qualified; and

(c) the Disciplinary Board and the members thereof are qualified to act.

(Source: P.A. 95-703, eff. 12-31-07.)

Section 10-20. The Illinois Administrative Procedure Act is amended by adding Section 5-45.35 as follows:

(5 ILCS 100/5-45.35 new)

Sec. 5-45.35. Emergency rulemaking; temporary licenses for health care. To provide for the expeditious and timely implementation of Section 66 of the Medical Practice Act of 1987, Sections 65-11 and 65-11.5 of the Nurse Practice Act, and Section 9.7 of the Physician Assistant Practice Act of 1987, emergency rules implementing the issuance of temporary permits to applicants who are licensed to practice as a physician, advanced practice registered nurse, or physician assistant in another state may be adopted in accordance with Section 5-45 by the Department of Financial and Professional Regulation. The adoption of emergency rules authorized by Section 5-45 and this Section is deemed to be necessary for the public interest, safety, and welfare.

This Section is repealed one year after the effective date of this amendatory Act of the 102nd General Assembly.

Article 11

Section 11-5. Short title. This Article may be cited as the Lawful Health Care Activity Act. References in this Article to "this Act" mean this Article.

Section 11-10. Definitions. As used in this Act:

"Gender-affirming health care" includes, but is not limited to, all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature relating to the treatment of gender dysphoria or the affirmation of an individual's gender identity or gender expression.

"Lawful health care" means reproductive health care or gender-affirming health care that is not unlawful under the laws of this State, including on any theory of vicarious, joint, several, or conspiracy liability.

"Lawful health care activity" means seeking, providing, receiving, assisting in seeking, providing, or receiving, providing material support for, or traveling to obtain lawful health care.

"Reproductive health care" has the meaning given to that term in Section 1-10 of the Reproductive Health Act.

Section 11-15. Conflict of law. Notwithstanding any general or special law or common law conflict of law rule to the contrary, the laws of this State shall govern in any case or controversy heard in this State related to lawful health care activity.

Section 11-20. Limits on execution of foreign judgments. In any action filed to enforce the judgment of a foreign state, issued in connection with any litigation concerning lawful health care activity, the court hearing the action shall not give any force or effect to any judgment issued without jurisdiction.

Section 11-25. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 11-30. The Uniform Interstate Depositions and Discovery Act is amended by changing Section 3 and by adding Section 3.5 as follows:

(735 ILCS 35/3)

Sec. 3. Issuance of subpoena.

(a) To request issuance of a subpoena under this Section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this State. A request for the issuance of a subpoena under this Act does not constitute an appearance in the courts of this State.

(b) When a party submits a foreign subpoena to a clerk of court in this State, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed unless issuance is prohibited by Section 3.5.

(c) A subpoena under subsection (b) must:

(A) incorporate the terms used in the foreign subpoena; and

(B) contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel. (Source: P.A. 99-79, eff. 1-1-16.)

(735 ILCS 35/3.5 new)

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Sec. 3.5. Unenforceable foreign subpoenas.

(a) If a request for issuance of a subpoena pursuant to this Act seeks documents or information related to lawful health care activity, as defined in the Lawful Health Care Activity Act, or seeks documents in support of any claim that interferes with rights under the Reproductive Health Act, then the person or entity requesting the subpoena shall include an attestation, signed under penalty of perjury, confirming and identifying that an exemption in subsection (c) applies. Any false attestation submitted under this Section or the failure to submit an attestation required by this Section shall be subject to a statutory penalty of \$10,000 per violation. Submission of such attestation shall subject the attestation of the courts of this State for any suit, penalty, or damages arising out of a false attestation under this Section.

(b) No clerk of court shall issue a subpoena based on a foreign subpoena that:

(1) requests information or documents related to lawful health care activity, as defined in the Lawful Health Care Activity Act; or

(2) is related to the enforcement of another state's law that would interfere with an individual's rights under the Reproductive Health Act.

(c) A clerk of court may issue the subpoena if the subpoena includes the attestation as described in subsection (a) and the subpoena relates to:

(1) an out-of-state action founded in tort, contract, or statute brought by the patient who sought or received the lawful health care or the patient's authorized legal representative, for damages suffered by the patient or damages derived from an individual's loss of consortium of the patient, and for which a similar claim would exist under the laws of this State; or

(2) an out-of-state action founded in contract brought or sought to be enforced by a party with a contractual relationship with the individual whose documents or information are the subject of the subpoena and for which a similar claim would exist under the laws of this State.

(d) Any person or entity served with a subpoena reasonably believed to be issued in violation of this Section shall not comply with the subpoena.

(e) Any person or entity who is the recipient of, or whose lawful health care is the subject of, a subpoena reasonably believed to be issued in violation of this Section may, but is not required to, move to modify or quash the subpoena.

(f) (Blank).

(g) As used in this Section:

"Lawful health care" has the meaning given to that term in Section 11-10 of the Lawful Health Care Activity Act.

"Lawful health care activity" has the meaning given to that term in Section 11-10 of the Lawful Health Care Activity Act.

(h) The Supreme Court shall have jurisdiction to adopt rules for the implementation of this Section.

Section 11-35. The Uniform Act to Secure the Attendance of Witnesses from Within or Without a State in Criminal Proceedings is amended by changing Section 2 as follows:

(725 ILCS 220/2) (from Ch. 38, par. 156-2)

Sec. 2. Summoning witness in this state to testify in another state.

If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence (and of any other state through which the witness may be required to pass by ordinary course of travel), will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

No subpoena, summons, or order shall be issued for a witness to provide information or testimony in relation to any proceeding if the charge is based on conduct that involves lawful health care activity, as defined by the Lawful Health Care Activity Act, that is not unlawful under the laws of this State. This limitation does not apply for the purpose of complying with obligations under Brady v. Maryland (373 U.S. 83) or Giglio v. United States (405 U.S. 150).

If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of 10 cents a mile for each mile by the ordinary travel route to and from the court where the prosecution is pending and five dollars for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court in this state.

(Source: Laws 1967, p. 3804.)

Section 11-40. The Uniform Criminal Extradition Act is amended by changing Section 6 as follows: (725 ILCS 225/6) (from Ch. 60, par. 23)

Sec. 6. Extradition of persons not present in demanding state at time of commission of crime.

The Governor of this State may also surrender, on demand of the Executive Authority of any other state, any person in this State charged in such other state in the manner provided in Section 3 with committing an act in this State, or in a third state, intentionally resulting in a crime in the state whose Executive Authority is making the demand. However, the Governor of this State shall not surrender such a person if the charge is based on conduct that involves seeking, providing, receiving, assisting in seeking, providing, or receiving, providing material support for, or traveling to obtain lawful health care, as defined by Section 11-10 of the Lawful Health Care Activity Act, that is not unlawful under the laws of this State, including a charge based on any theory of vicarious, joint, several, or conspiracy liability. (Source: Laws 1955, p. 1982.)

Article 13

Section 13-5. The Counties Code is amended by changing Section 3-4006 as follows: (55 ILCS 5/3-4006) (from Ch. 34, par. 3-4006)

Sec. 3-4006. Duties of public defender. The Public Defender, as directed by the court, shall act as attorney, without fee, before any court within any county for all persons who are held in custody or who are charged with the commission of any criminal offense, and who the court finds are unable to employ counsel.

The Public Defender shall be the attorney, without fee, when so appointed by the court under Section 1-20 of the Juvenile Court Act or Section 1-5 of the Juvenile Court Act of 1987 or by any court under Section 5(b) of the Parental Notice of Abortion Act of 1983 for any party who the court finds is financially unable to employ counsel.

In cases subject to Section 5-170 of the Juvenile Court Act of 1987 involving a minor who was under 15 years of age at the time of the commission of the offense, that occurs in a county with a full-time public defender office, a public defender, without fee or appointment, may represent and have access to a minor during a custodial interrogation. In cases subject to Section 5-170 of the Juvenile Court Act of 1987 involving a minor who was under 15 years of age at the time of the commission of the offense, that occurs in a county without a full-time public defender, the law enforcement agency conducting the custodial interrogation shall ensure that the minor is able to consult with an attorney who is under contract with the first court appearance if the court determines that the minor is not indigent.

Every court shall, with the consent of the defendant and where the court finds that the rights of the defendant would be prejudiced by the appointment of the public defender, appoint counsel other than the

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public defender, except as otherwise provided in Section 113-3 of the "Code of Criminal Procedure of 1963". That counsel shall be compensated as is provided by law. He shall also, in the case of the conviction of any such person, prosecute any proceeding in review which in his judgment the interests of justice require.

In counties with a population over 3,000,000, the public defender, without fee or appointment and with the concurrence of the county board, may act as attorney to noncitizens in immigration cases. Representation by the public defender in immigration cases shall be limited to those arising in immigration courts located within the geographical boundaries of the county where the public defender has been appointed to office unless the board authorizes the public defender to provide representation outside the county.

(Source: P.A. 102-410, eff. 1-1-22.)

Section 13-10. The Medical Practice Act of 1987 is amended by changing Sections 22 and 23 as follows:

(225 ILCS 60/22) (from Ch. 111, par. 4400-22)

(Section scheduled to be repealed on January 1, 2027)

Sec. 22. Disciplinary action.

(A) The Department may revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action as the Department may deem proper with regard to the license or permit of any person issued under this Act, including imposing fines not to exceed \$10,000 for each violation, upon any of the following grounds:

(1) (Blank).

(2) (Blank).

(3) A plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States of any crime that is a felony.

(4) Gross negligence in practice under this Act.

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

(6) Obtaining any fee by fraud, deceit, or misrepresentation.

(7) Habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, or of any other substances which results in the inability to practice with reasonable judgment, skill, or safety.

(8) Practicing under a false or, except as provided by law, an assumed name.

(9) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(10) Making a false or misleading statement regarding their skill or the efficacy or value of the medicine, treatment, or remedy prescribed by them at their direction in the treatment of any disease or other condition of the body or mind.

(11) Allowing another person or organization to use their license, procured under this Act, to practice.

(12) Adverse action taken by another state or jurisdiction against a license or other authorization to practice as a medical doctor, doctor of osteopathy, doctor of osteopathic medicine or doctor of chiropractic, a certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof. This includes any adverse action taken by a State or federal agency that prohibits a medical doctor, doctor of osteopathy, doctor of osteopathic medicine, or doctor of chiropractic from providing services to the agency's participants.

(13) Violation of any provision of this Act or of the Medical Practice Act prior to the repeal of that Act, or violation of the rules, or a final administrative action of the Secretary, after consideration of the recommendation of the Medical Board.

(14) Violation of the prohibition against fee splitting in Section 22.2 of this Act.

(15) A finding by the Medical Board that the registrant after having his or her license placed on probationary status or subjected to conditions or restrictions violated the terms of the probation or failed to comply with such terms or conditions.

(16) Abandonment of a patient.

(17) Prescribing, selling, administering, distributing, giving, or self-administering any drug classified as a controlled substance (designated product) or narcotic for other than medically accepted therapeutic purposes.

(18) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in such manner as to exploit the patient for financial gain of the physician.

(19) Offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any human condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the Department.

(20) Immoral conduct in the commission of any act including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice.

(21) Willfully making or filing false records or reports in his or her practice as a physician, including, but not limited to, false records to support claims against the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(22) Willful omission to file or record, or willfully impeding the filing or recording, or inducing another person to omit to file or record, medical reports as required by law, or willfully failing to report an instance of suspected abuse or neglect as required by law.

(23) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(24) Solicitation of professional patronage by any corporation, agents or persons, or profiting from those representing themselves to be agents of the licensee.

(25) Gross and willful and continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered, including, but not limited to, filing such false statements for collection of monies for services not rendered from the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(26) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

(27) Mental illness or disability which results in the inability to practice under this Act with reasonable judgment, skill, or safety.

(28) Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in a physician's inability to practice under this Act with reasonable judgment, skill, or safety.

(29) Cheating on or attempting to subvert the licensing examinations administered under this Act.

(30) Willfully or negligently violating the confidentiality between physician and patient except as required by law.

(31) The use of any false, fraudulent, or deceptive statement in any document connected with practice under this Act.

(32) Aiding and abetting an individual not licensed under this Act in the practice of a profession licensed under this Act.

(33) Violating state or federal laws or regulations relating to controlled substances, legend drugs, or ephedra as defined in the Ephedra Prohibition Act.

(34) Failure to report to the Department any adverse final action taken against them by another licensing jurisdiction (any other state or any territory of the United States or any foreign state or country), by any peer review body, by any health care institution, by any professional society or association related to practice under this Act, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(35) Failure to report to the Department surrender of a license or authorization to practice as a medical doctor, a doctor of osteopathy, a doctor of osteopathic medicine, or doctor of chiropractic in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society, while under disciplinary investigation by any of those authorities or bodies, for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(36) Failure to report to the Department any adverse judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(37) Failure to provide copies of medical records as required by law.

(38) Failure to furnish the Department, its investigators or representatives, relevant information, legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator.

(39) Violating the Health Care Worker Self-Referral Act.

(40) (Blank). Willful failure to provide notice when notice is required under the Parental Notice of Abortion Act of 1995.

(41) Failure to establish and maintain records of patient care and treatment as required by this law.

(42) Entering into an excessive number of written collaborative agreements with licensed advanced practice registered nurses resulting in an inability to adequately collaborate.

(43) Repeated failure to adequately collaborate with a licensed advanced practice registered nurse.

(44) Violating the Compassionate Use of Medical Cannabis Program Act.

(45) Entering into an excessive number of written collaborative agreements with licensed prescribing psychologists resulting in an inability to adequately collaborate.

(46) Repeated failure to adequately collaborate with a licensed prescribing psychologist.

(47) Willfully failing to report an instance of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult as defined in and required by the Adult Protective Services Act.

(48) Being named as an abuser in a verified report by the Department on Aging under the Adult Protective Services Act, and upon proof by clear and convincing evidence that the licensee abused, neglected, or financially exploited an eligible adult as defined in the Adult Protective Services Act.

(49) Entering into an excessive number of written collaborative agreements with licensed physician assistants resulting in an inability to adequately collaborate.

(50) Repeated failure to adequately collaborate with a physician assistant.

Except for actions involving the ground numbered (26), all proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 years next after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described herein. Except for the grounds numbered (8), (9), (26), and (29), no action shall be commenced more than 10 years after the date of the incident or act alleged to have violated this Section. For actions involving the ground numbered (26), a pattern of practice or other behavior includes all incidents alleged to be part of the pattern of practice or other behavior that occurred, or a report pursuant to Section 23 of this Act received, within the 10-year period preceding the filing of the complaint. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action, or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an additional period of 2 years from the date of notification to the Department under Section 23 of this Act of such settlement or final judgment in which to investigate and commence formal disciplinary proceedings under Section 36 of this Act, except as otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

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

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

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

(a) when a person will be deemed sufficiently rehabilitated to warrant the public trust;

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

(c) what constitutes immoral conduct in the commission of any act, including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice; and

(d) what constitutes gross negligence in the practice of medicine.

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

In enforcing this Section, the Medical Board, upon a showing of a possible violation, may compel any individual who is licensed to practice under this Act or holds a permit to practice under this Act, or any individual who has applied for licensure or a permit pursuant to this Act, to submit to a mental or physical examination and evaluation, or both, which may include a substance abuse or sexual offender evaluation, as required by the Medical Board and at the expense of the Department. The Medical Board shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination and evaluation, or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed chiropractic physicians, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination and evaluation pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing, or neuropsychological testing. The Medical Board or the Department may order the examining physician or any member of the multidisciplinary team to provide to the Department or the Medical Board any and all records, including business records, that relate to the examination and evaluation, including any supplemental testing performed. The Medical Board or the Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning this examination and evaluation of the licensee, permit holder, or applicant, including testimony concerning any supplemental testing or documents relating to the examination and evaluation. No information, report, record, or other documents in any way related to the examination and evaluation shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee, permit holder, or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee, permit holder, or applicant ordered to undergo an evaluation and examination for the examining physician or any member of the multidisciplinary team to provide information, reports, records, or other documents or to provide any testimony regarding the examination and evaluation. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination and evaluation, or both, when directed, shall result in an automatic suspension, without hearing, until such time as the individual submits to the examination. If the Medical Board finds a physician unable to practice following an examination and evaluation because of the reasons set forth in this Section, the Medical Board shall require such physician to submit to care, counseling, or treatment by physicians, or other health care professionals, approved or designated by the Medical Board, as a condition for issued, continued, reinstated, or renewed licensure to practice. Any physician, whose license was granted pursuant to Sections 9, 17, or 19 of this Act, or, continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions, or restrictions who shall fail to comply with such terms, conditions, or restrictions, or to complete a required program of care, counseling, or treatment, as determined by the Chief Medical Coordinator or Deputy Medical Coordinators, shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately. pending a hearing by the Medical Board. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Medical Board within 15 days after such suspension and completed without appreciable delay. The Medical Board shall have the authority to review the subject physician's record of treatment and counseling regarding the impairment, to

the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

The Department may promulgate rules for the imposition of fines in disciplinary cases, not to exceed \$10,000 for each violation of this Act. Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury to a patient. Any funds collected from such fines shall be deposited in the Illinois State Medical Disciplinary Fund.

All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine or in accordance with the terms set forth in the order imposing the fine.

(B) The Department shall revoke the license or permit issued under this Act to practice medicine or a chiropractic physician who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or permit is revoked under this subsection B shall be prohibited from practicing medicine or treating human ailments without the use of drugs and without operative surgery.

(C) The Department shall not revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice medicine to a physician:

(1) based solely upon the recommendation of the physician to an eligible patient regarding, or prescription for, or treatment with, an investigational drug, biological product, or device; or

(2) for experimental treatment for Lyme disease or other tick-borne diseases, including, but not limited to, the prescription of or treatment with long-term antibiotics.

(D) (Blank). The Medical Board shall recommend to the Department civil penalties and any other appropriate discipline in disciplinary cases when the Medical Board finds that a physician willfully performed an abortion with actual knowledge that the person upon whom the abortion has been performed is a minor or an incompetent person without notice as required under the Parental Notice of Abortion Act of 1995. Upon the Medical Board's recommendation, the Department shall impose, for the first violation, a eivil penalty of \$1,000 and for a second or subsequent violation, a eivil penalty of \$5,000.

(Source: P.A. 101-13, eff. 6-12-19; 101-81, eff. 7-12-19; 101-363, eff. 8-9-19; 102-20, eff. 1-1-22; 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

(225 ILCS 60/23) (from Ch. 111, par. 4400-23)

(Section scheduled to be repealed on January 1, 2027)

Sec. 23. Reports relating to professional conduct and capacity.

(A) Entities required to report.

(1) Health care institutions. The chief administrator or executive officer of any health care institution licensed by the Illinois Department of Public Health shall report to the Medical Board when any person's clinical privileges are terminated or are restricted based on a final determination made in accordance with that institution's by-laws or rules and regulations that a person has either committed an act or acts which may directly threaten patient care or that a person may have a mental or physical disability that may endanger patients under that person's care. Such officer also shall report if a person accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon conduct related directly to patient care or in lieu of formal action seeking to determine whether a person may have a mental or physical disability that may endanger patients under that person's care. The Medical Board shall, by rule, provide for the reporting to it by health care institutions of all instances in which a person, licensed under this Act, who is impaired by reason of age, drug or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, is in a program of rehabilitation. Such reports shall be strictly confidential and may be reviewed and considered only by the members of the Medical Board, or by authorized staff as provided by rules of the Medical Board. Provisions shall be made for the periodic report of the status of any such person not less than twice annually in order that the Medical Board shall have current information upon which to determine the status of any such person. Such initial and periodic reports of impaired physicians shall not be considered records within the meaning of the State Records Act and shall be disposed of, following a determination by the Medical Board that such reports are no

longer required, in a manner and at such time as the Medical Board shall determine by rule. The filing of such reports shall be construed as the filing of a report for purposes of subsection (C) of this Section.

(1.5) Clinical training programs. The program director of any post-graduate clinical training program shall report to the Medical Board if a person engaged in a post-graduate clinical training program at the institution, including, but not limited to, a residency or fellowship, separates from the program for any reason prior to its conclusion. The program director shall provide all documentation relating to the separation if, after review of the report, the Medical Board determines that a review of those documents is necessary to determine whether a violation of this Act occurred.

(2) Professional associations. The President or chief executive officer of any association or society, of persons licensed under this Act, operating within this State shall report to the Medical Board when the association or society renders a final determination that a person has committed unprofessional conduct related directly to patient care or that a person may have a mental or physical disability that may endanger patients under that person's care.

(3) Professional liability insurers. Every insurance company which offers policies of professional liability insurance to persons licensed under this Act, or any other entity which seeks to indemnify the professional liability of a person licensed under this Act, shall report to the Medical Board the settlement of any claim or cause of action, or final judgment rendered in any cause of action, which alleged negligence in the furnishing of medical care by such licensed person when such settlement or final judgment is in favor of the plaintiff.

(4) State's Attorneys. The State's Attorney of each county shall report to the Medical Board, within 5 days, any instances in which a person licensed under this Act is convicted of any felony or Class A misdemeanor. The State's Attorney of each county may report to the Medical Board through a verified complaint any instance in which the State's Attorney believes that a physician has willfully violated the notice requirements of the Parental Notice of Abortion Act of 1995.

(5) State agencies. All agencies, boards, commissions, departments, or other instrumentalities of the government of the State of Illinois shall report to the Medical Board any instance arising in connection with the operations of such agency, including the administration of any law by such agency, in which a person licensed under this Act has either committed an act or acts which may be a violation of this Act or which may constitute unprofessional conduct related directly to patient care or which indicates that a person licensed under this Act may have a mental or physical disability that may endanger patients under that person's care.

(B) Mandatory reporting. All reports required by items (34), (35), and (36) of subsection (A) of Section 22 and by Section 23 shall be submitted to the Medical Board in a timely fashion. Unless otherwise provided in this Section, the reports shall be filed in writing within 60 days after a determination that a report is required under this Act. All reports shall contain the following information:

(1) The name, address and telephone number of the person making the report.

(2) The name, address and telephone number of the person who is the subject of the report.

(3) The name and date of birth of any patient or patients whose treatment is a subject of the report, if available, or other means of identification if such information is not available, identification of the hospital or other healthcare facility where the care at issue in the report was rendered, provided, however, no medical records may be revealed.

(4) A brief description of the facts which gave rise to the issuance of the report, including the dates of any occurrences deemed to necessitate the filing of the report.

(5) If court action is involved, the identity of the court in which the action is filed, along with the docket number and date of filing of the action.

(6) Any further pertinent information which the reporting party deems to be an aid in the evaluation of the report.

The Medical Board or Department may also exercise the power under Section 38 of this Act to subpoena copies of hospital or medical records in mandatory report cases alleging death or permanent bodily injury. Appropriate rules shall be adopted by the Department with the approval of the Medical Board.

When the Department has received written reports concerning incidents required to be reported in items (34), (35), and (36) of subsection (A) of Section 22, the licensee's failure to report the incident to the Department under those items shall not be the sole grounds for disciplinary action.

Nothing contained in this Section shall act to, in any way, waive or modify the confidentiality of medical reports and committee reports to the extent provided by law. Any information reported or disclosed

shall be kept for the confidential use of the Medical Board, the Medical Coordinators, the Medical Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act, and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation or to a health care licensing body or medical licensing authority of this State or another state or jurisdiction pursuant to an official request made by that licensing body or medical licensing authority. Furthermore, information and documents disclosed to a federal, State, or local law enforcement agency only for the investigation and prosecution of a criminal offense, or, in the case of disclosure to a health care licensing body or medical licensing authority, only for investigations and disciplinary action proceedings with regard to a license. Information and documents disclosed to the Department of Public Health may be used by that Department only for investigation and disciplinary action regarding the license of a health care institution licensed by the Department of Public Health.

(C) Immunity from prosecution. Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Medical Board or a peer review committee, or assisting in the investigation or preparation of such information, or by voluntarily reporting to the Medical Board or a peer review committee information regarding alleged errors or negligence by a person licensed under this Act, or by participating in proceedings of the Medical Board or a peer review committee, or by serving as a member of the Medical Board or a peer review committee, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(D) Indemnification. Members of the Medical Board, the Medical Coordinators, the Medical Board's attorneys, the medical investigative staff, physicians retained under contract to assist and advise the medical coordinators in the investigation, and authorized clerical staff shall be indemnified by the State for any actions occurring within the scope of services on the Medical Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

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

The member must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Medical Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(E) Deliberations of Medical Board. Upon the receipt of any report called for by this Act, other than those reports of impaired persons licensed under this Act required pursuant to the rules of the Medical Board, the Medical Board shall notify in writing, by mail or email, the person who is the subject of the report. Such notification shall be made within 30 days of receipt by the Medical Board of the report.

The notification shall include a written notice setting forth the person's right to examine the report. Included in such notification shall be the address at which the file is maintained, the name of the custodian of the reports, and the telephone number at which the custodian may be reached. The person who is the subject of the report shall submit a written statement responding, clarifying, adding to, or proposing the amending of the report previously filed. The person who is the subject of the report shall also submit with the written statement any medical records related to the report. The statement and accompanying medical records shall become a permanent part of the file and must be received by the Medical Board no more than 30 days after the date on which the person was notified by the Medical Board of the existence of the original report.

The Medical Board shall review all reports received by it, together with any supporting information and responding statements submitted by persons who are the subject of reports. The review by the Medical Board shall be in a timely manner but in no event, shall the Medical Board's initial review of the material contained in each disciplinary file be less than 61 days nor more than 180 days after the receipt of the initial report by the Medical Board.

When the Medical Board makes its initial review of the materials contained within its disciplinary files, the Medical Board shall, in writing, make a determination as to whether there are sufficient facts to warrant further investigation or action. Failure to make such determination within the time provided shall be deemed to be a determination that there are not sufficient facts to warrant further investigation or action.

Should the Medical Board find that there are not sufficient facts to warrant further investigation, or action, the report shall be accepted for filing and the matter shall be deemed closed and so reported to the Secretary. The Secretary shall then have 30 days to accept the Medical Board's decision or request further investigation. The Secretary shall inform the Medical Board of the decision to request further investigation, including the specific reasons for the decision. The individual or entity filing the original report or complaint and the person who is the subject of the report or complaint shall be notified in writing by the Secretary of any final action on their report or complaint. The Department shall disclose to the individual or entity who filed the original report or complaint, on request, the status of the Medical Board's review of a specific report or complaint. Such request may be made at any time, including prior to the Medical Board's determination as to whether there are sufficient facts to warrant further investigation or action.

(F) Summary reports. The Medical Board shall prepare, on a timely basis, but in no event less than once every other month, a summary report of final disciplinary actions taken upon disciplinary files maintained by the Medical Board. The summary reports shall be made available to the public upon request and payment of the fees set by the Department. This publication may be made available to the public on the Department's website. Information or documentation relating to any disciplinary file that is closed without disciplinary action taken shall not be disclosed and shall be afforded the same status as is provided by Part 21 of Article VIII of the Code of Civil Procedure.

(G) Any violation of this Section shall be a Class A misdemeanor.

(H) If any such person violates the provisions of this Section an action may be brought in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, for an order enjoining such violation or for an order enforcing compliance with this Section. Upon filing of a verified petition in such court, the court may issue a temporary restraining order without notice or bond and may preliminarily or permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this paragraph shall be in addition to, and not in lieu of, all other remedies and penalties provided for by this Section.

(Source: P.A. 102-20, eff. 1-1-22; 102-687, eff. 12-17-21.)

Section 13-15. The Consent by Minors to Health Care Services Act is amended by changing Section 1.5 as follows:

(410 ILCS 210/1.5)

Sec. 1.5. Consent by minor seeking care for limited primary care services.

(a) The consent to the performance of primary care services by a physician licensed to practice medicine in all its branches, a licensed advanced practice registered nurse, a licensed physician assistant, a chiropractic physician, or a licensed optometrist executed by a minor seeking care is not voidable because of such minority, and for such purpose, a minor seeking care is deemed to have the same legal capacity to act and has the same powers and obligations as has a person of legal age under the following circumstances:

(1) the health care professional reasonably believes that the minor seeking care understands the benefits and risks of any proposed primary care or services; and

(2) the minor seeking care is identified in writing as a minor seeking care by:

(A) an adult relative;

(B) a representative of a homeless service agency that receives federal, State, county, or municipal funding to provide those services or that is otherwise sanctioned by a local continuum of care;

(C) an attorney licensed to practice law in this State;

(D) a public school homeless liaison or school social worker;

(E) a social service agency providing services to at risk, homeless, or runaway youth; or

(F) a representative of a religious organization.

(b) A health care professional rendering primary care services under this Section shall not incur civil or criminal liability for failure to obtain valid consent or professional discipline for failure to obtain valid consent if he or she relied in good faith on the representations made by the minor or the information provided under paragraph (2) of subsection (a) of this Section. Under such circumstances, good faith shall be presumed.

[January 6, 2023]

(c) The confidential nature of any communication between a health care professional described in Section 1 of this Act and a minor seeking care is not waived (1) by the presence, at the time of communication, of any additional persons present at the request of the minor seeking care, (2) by the health care professional's disclosure of confidential information to the additional person with the consent of the minor seeking care, when reasonably necessary to accomplish the purpose for which the additional person is consulted, or (3) by the health care professional billing a health benefit insurance or plan under which the minor seeking care is insured, is enrolled, or has coverage for the services provided.

(d) Nothing in this Section shall be construed to limit or expand a minor's existing powers and obligations under any federal, State, or local law. Nothing in this Section shall be construed to affect the Parental Notice of Abortion Act of 1995. Nothing in this Section affects the right or authority of a parent or legal guardian to verbally, in writing, or otherwise authorize health care services to be provided for a minor in their absence.

(e) For the purposes of this Section:

"Minor seeking care" means a person at least 14 years of age but less than 18 years of age who is living separate and apart from his or her parents or legal guardian, whether with or without the consent of a parent or legal guardian who is unable or unwilling to return to the residence of a parent, and managing his or her own personal affairs. "Minor seeking care" does not include minors who are under the protective custody, temporary custody, or guardianship of the Department of Children and Family Services.

"Primary care services" means health care services that include screening, counseling, immunizations, medication, and treatment of illness and conditions customarily provided by licensed health care professionals in an out-patient setting, eye care services, excluding advanced optometric procedures, provided by optometrists, and services provided by chiropractic physicians according to the scope of practice of chiropractic physicians under the Medical Practice Act of 1987. "Primary care services" does not include invasive care, beyond standard injections, laceration care, or non-surgical fracture care.

(Source: P.A. 99-173, eff. 7-29-15; 100-378, eff. 1-1-18; 100-513, eff. 1-1-18; 100-863, eff. 8-14-18.)

Article 99

Section 99-95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99-99. Effective date. This Act takes effect upon becoming law, except that Article 2 takes effect on January 1, 2024.".

Under the rules, the foregoing **Senate Bill No. 1534**, with House Amendments numbered 1, 2, 3 and 4, was referred to the Secretary's Desk.

A message from the House by

Mr. Hollman, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2226

A bill for AN ACT concerning safety.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2226 House Amendment No. 3 to SENATE BILL NO. 2226

Passed the House, as amended, January 6, 2023.

JOHN W. HOLLMAN, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2226

AMENDMENT NO. 1 . Amend Senate Bill 2226 by replacing everything after the enacting clause with the following:

"Section 5. The Amusement Ride and Attraction Safety Act is amended by changing Section 2-1 as follows:

(430 ILCS 85/2-1) (from Ch. 111 1/2, par. 4051)

Sec. 2-1. This Article shall be known and and may be cited as the "Amusement Ride and Attraction Safety Act".

(Source: P.A. 98-769, eff. 1-1-15.)".

AMENDMENT NO. 3 TO SENATE BILL 2226

AMENDMENT NO. 3 . Amend Senate Bill 2226, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. This Act may be referred to as the Protect Illinois Communities Act.

Section 5. The Illinois State Police Law of the Civil Administrative Code of Illinois is amended by changing Sections 2605-35 and 2605-51.1 as follows:

(20 ILCS 2605/2605-35) (was 20 ILCS 2605/55a-3)

Sec. 2605-35. Division of Criminal Investigation.

(a) The Division of Criminal Investigation shall exercise the following functions and those in Section 2605-30:

(1) Exercise the rights, powers, and duties vested by law in the Illinois State Police by the Illinois Horse Racing Act of 1975, including those set forth in Section 2605-215.

(2) Investigate the origins, activities, personnel, and incidents of crime and enforce the criminal laws of this State related thereto.

(3) Enforce all laws regulating the production, sale, prescribing, manufacturing, administering, transporting, having in possession, dispensing, delivering, distributing, or use of controlled substances and cannabis.

(4) Cooperate with the police of cities, villages, and incorporated towns and with the police officers of any county in enforcing the laws of the State and in making arrests and recovering property.

(5) Apprehend and deliver up any person charged in this State or any other state with treason or a felony or other crime who has fled from justice and is found in this State.

(6) Investigate recipients and providers under the Illinois Public Aid Code and any personnel involved in the administration of the Code who are suspected of any violation of the Code pertaining to fraud in the administration, receipt, or provision of assistance and pertaining to any violation of criminal law; and exercise the functions required under Section 2605-220 in the conduct of those investigations.

(7) Conduct other investigations as provided by law, including, but not limited to, investigations of human trafficking, illegal drug trafficking, and illegal firearms trafficking.

(8) Investigate public corruption.

(9) Exercise other duties that may be assigned by the Director in order to fulfill the responsibilities and achieve the purposes of the Illinois State Police, which may include the coordination of gang, terrorist, and organized crime prevention, control activities, and assisting local law enforcement in their crime control activities.

(10) Conduct investigations (and cooperate with federal law enforcement agencies in the investigation) of any property-related crimes, such as money laundering, involving individuals or entities listed on the sanctions list maintained by the U.S. Department of Treasury's Office of Foreign Asset Control.

(b) (Blank).

(c) The Division of Criminal Investigation shall provide statewide coordination and strategy pertaining to firearm-related intelligence, firearms trafficking interdiction, and investigations reaching across all divisions of the Illinois State Police, including providing crime gun intelligence support for suspects and firearms involved in firearms trafficking or the commission of a crime involving firearms that is investigated by the Illinois State Police and other federal, State, and local law enforcement agencies, with the objective of reducing and preventing illegal possession and use of firearms, firearms trafficking, firearm-related homicides, and other firearm-related violent crimes in Illinois.

(Source: P.A. 102-538, eff. 8-20-21; 102-813, eff. 5-13-22; 102-1108, eff. 12-21-22.)

[January 6, 2023]

(Section scheduled to be repealed on June 1, 2026)

Sec. 2605-51.1. Commission on Implementing the Firearms Restraining Order Act.

(a) There is created the Commission on Implementing the Firearms Restraining Order Act composed of at least 12 members to advise on the strategies of education and implementation of the Firearms Restraining Order Act. The Commission shall be appointed by the Director of the Illinois State Police or his or her designee and shall include a liaison or representative nominated from the following:

(1) the Office of the Attorney General, appointed by the Attorney General;

(2) the Director of the Illinois State Police or his or her designee;

(3) at least 3 State's Attorneys, nominated by the Director of the Office of the State's Attorneys Appellate Prosecutor;

(4) at least 2 municipal police department representatives, nominated by the Illinois Association of Chiefs of Police;

(5) an Illinois sheriff, nominated by the Illinois Sheriffs' Association;

(6) the Director of Public Health or his or her designee;

(7) the Illinois Law Enforcement Training Standards Board, nominated by the Executive Director of the Board;

(8) a representative from a public defender's office, nominated by the State Appellate Defender;

(9) a circuit court judge, nominated by the Chief Justice of the Supreme Court;

(10) a prosecutor with experience managing or directing a program in another state where the implementation of that state's extreme risk protection order law has achieved high rates of petition filings nominated by the National District Attorneys Association; and

(11) an expert from law enforcement who has experience managing or directing a program in another state where the implementation of that state's extreme risk protection order law has achieved high rates of petition filings nominated by the Director of the Illinois State Police; and

(12) a circuit court clerk, nominated by the President of the Illinois Association of Court Clerks.
(b) The Commission shall be chaired by the Director of the Illinois State Police or his or her designee.
The Commission shall meet, either virtually or in person, to discuss the implementation of the Firearms Restraining Order Act as determined by the Commission while the strategies are being established.

(c) The members of the Commission shall serve without compensation and shall serve 3-year terms.

(d) An annual report shall be submitted to the General Assembly by the Commission that may include summary information about firearms restraining order use by county, challenges to Firearms Restraining Order Act implementation, and recommendations for increasing and improving implementation.

(e) The Commission shall develop a model policy with an overall framework for the timely relinquishment of firearms whenever a firearms restraining order is issued. The model policy shall be finalized within the first 4 months of convening. In formulating the model policy, the Commission shall consult counties in Illinois and other states with extreme risk protection order laws which have achieved a high rate of petition filings. Once approved, the Illinois State Police shall work with their local law enforcement agencies within their county to design a comprehensive strategy for the timely relinquishment of firearms, using the model policy as an overall framework. Each individual agency may make small modifications as needed to the model policy and must approve and adopt a policy that aligns with the model policy. The Illinois State Police shall convene local police chiefs and sheriffs within their county as needed to discuss the relinquishment of firearms.

(f) The Commission shall be dissolved June 1, 2025 (3 years after the effective date of Public Act 102-345).

(g) This Section is repealed June 1, 2026 (4 years after the effective date of Public Act 102-345). (Source: P.A. 102-345, eff. 6-1-22; 102-813, eff. 5-13-22.)

Section 10. The Illinois Procurement Code is amended by changing Section 1-10 as follows: (30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which bidders, offerors, potential contractors, or contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including, but not limited to, any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited

between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies, except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care, except as provided in Section 5-30.6 of the Illinois Public Aid Code and this Section.

(4) Hiring of an individual as an employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than \$25,000 must be published in the Procurement Bulletin within 10 calendar days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) (Blank).

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(10) (Blank).

(11) Public-private agreements entered into according to the procurement requirements of Section 20 of the Public-Private Partnerships for Transportation Act and design-build agreements entered into according to the procurement requirements of Section 25 of the Public-Private Partnerships for Transportation Act.

(12) (A) Contracts for legal, financial, and other professional and artistic services entered into by the Illinois Finance Authority in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Finance Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Finance Authority of the terms of the contract.

(B) Contracts for legal and financial services entered into by the Illinois Housing Development Authority in connection with the issuance of bonds in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Housing Development Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Housing Development Authority of the terms of the contract.

(13) Contracts for services, commodities, and equipment to support the delivery of timely forensic science services in consultation with and subject to the approval of the Chief Procurement Officer as provided in subsection (d) of Section 5-4-3a of the Unified Code of Corrections, except for the requirements of Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of this Code; however, the Chief Procurement Officer may, in writing with justification, waive any certification required under Article 50 of this Code. For any contracts for services which are currently provided by members of a collective bargaining agreement, the applicable terms of the collective bargaining agreement concerning subcontracting shall be followed.

On and after January 1, 2019, this paragraph (13), except for this sentence, is inoperative.

(14) Contracts for participation expenditures required by a domestic or international trade show or exhibition of an exhibitor, member, or sponsor.

(15) Contracts with a railroad or utility that requires the State to reimburse the railroad or utilities for the relocation of utilities for construction or other public purpose. Contracts included within this paragraph (15) shall include, but not be limited to, those associated with: relocations, crossings, installations, and maintenance. For the purposes of this paragraph (15), "railroad" means any form of non-highway ground transportation that runs on rails or electromagnetic guideways and

"utility" means: (1) public utilities as defined in Section 3-105 of the Public Utilities Act, (2) telecommunications carriers as defined in Section 13-202 of the Public Utilities Act, (3) electric cooperatives as defined in Section 3.4 of the Electric Supplier Act, (4) telephone or telecommunications cooperatives as defined in Section 13-212 of the Public Utilities Act, (5) rural water or waste water systems with 10,000 connections or less, (6) a holder as defined in Section 21-201 of the Public Utilities Act, and (7) municipalities owning or operating utility systems consisting of public utilities as that term is defined in Section 11-117-2 of the Illinois Municipal Code.

(16) Procurement expenditures necessary for the Department of Public Health to provide the delivery of timely newborn screening services in accordance with the Newborn Metabolic Screening Act.

(17) Procurement expenditures necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, and the Department of Public Health to implement the Compassionate Use of Medical Cannabis Program and Opioid Alternative Pilot Program requirements and ensure access to medical cannabis for patients with debilitating medical conditions in accordance with the Compassionate Use of Medical Cannabis Program Act.

(18) This Code does not apply to any procurements necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, the Department of Commerce and Economic Opportunity, and the Department of Public Health to implement the Cannabis Regulation and Tax Act if the applicable agency has made a good faith determination that it is necessary and appropriate for the expenditure to fall within this exemption and if the process is conducted in a manner substantially in accordance with the requirements of Sections 20-160, 25-60, 30-22, 50-5, 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35, 50-36, 50-37, 50-38, and 50-50 of this Code; however, for Section 50-35, compliance applies only to contracts or subcontracts over \$100,000. Notice of each contract entered into under this paragraph (18) that is related to the procurement of goods and services identified in paragraph (1) through (9) of this subsection shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice. Each agency shall provide the Chief Procurement Officer, on a monthly basis, in the form and content prescribed by the Chief Procurement Officer, a report of contracts that are related to the procurement of goods and services identified in this subsection. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to this Code utilized. A copy of any or all of these contracts shall be made available to the Chief Procurement Officer immediately upon request. The Chief Procurement Officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that includes, at a minimum, an annual summary of the monthly information reported to the Chief Procurement Officer. This exemption becomes inoperative 5 years after June 25, 2019 (the effective date of Public Act 101-27).

(19) Acquisition of modifications or adjustments, limited to assistive technology devices and assistive technology services, adaptive equipment, repairs, and replacement parts to provide reasonable accommodations (i) that enable a qualified applicant with a disability to complete the job application process and be considered for the position such qualified applicant desires, (ii) that modify or adjust the work environment to enable a qualified current employee with a disability to perform the essential functions of the position held by that employee, (iii) to enable a qualified current employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities, and (iv) that allow a customer, client, claimant, or member of the public seeking State services full use and enjoyment of and access to its programs, services, or benefits.

For purposes of this paragraph (19):

"Assistive technology devices" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"Assistive technology services" means any service that directly assists an individual with a disability in selection, acquisition, or use of an assistive technology device.

"Qualified" has the same meaning and use as provided under the federal Americans with Disabilities Act when describing an individual with a disability.

(20) Procurement expenditures necessary for the Illinois Commerce Commission to hire third-party facilitators pursuant to Sections 16-105.17 and 16-108.18 of the Public Utilities Act or an ombudsman pursuant to Section 16-107.5 of the Public Utilities Act, a facilitator pursuant to Section 16-105.17 of the Public Utilities Act, or a grid auditor pursuant to Section 16-105.10 of the Public Utilities Act.

(21) Procurement expenditures for the purchase, renewal, and expansion of software, software licenses, or software maintenance agreements that support the efforts of the Illinois State Police to enforce, regulate, and administer the Firearm Owners Identification Card Act, the Firearm Concealed Carry Act, the Firearms Restraining Order Act, the Firearm Dealer License Certification Act, the Law Enforcement Agencies Data System (LEADS), the Uniform Crime Reporting Act, the Criminal Identification Act, the Uniform Conviction Information Act, and the Gun Trafficking Information Act, or establish or maintain record management systems necessary to conduct human trafficking investigations or gun trafficking or other stolen firearm investigations. This paragraph (21) applies to contracts entered into on or after the effective date of this amendatory Act of the 102nd General Assembly and the renewal of contracts that are in effect on the effective date of this amendatory Act of the 102nd General Assembly.

Notwithstanding any other provision of law, for contracts with an annual value of more than \$100,000 entered into on or after October 1, 2017 under an exemption provided in any paragraph of this subsection (b), except paragraph (1), (2), or (5), each State agency shall post to the appropriate procurement bulletin the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. The chief procurement officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the chief procurement officer.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act.

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(e) This Code does not apply to the process used by the Capital Development Board to retain a person or entity to assist the Capital Development Board with its duties related to the determination of costs of a clean coal SNG brownfield facility, as defined by Section 1-10 of the Illinois Power Agency Act, as required in subsection (h-3) of Section 9-220 of the Public Utilities Act, including calculating the range of capital costs, the range of operating and maintenance costs, or the sequestration costs or monitoring the construction of clean coal SNG brownfield facility for the full duration of construction.

(f) (Blank).

(g) (Blank).

(h) This Code does not apply to the process to procure or contracts entered into in accordance with Sections 11-5.2 and 11-5.3 of the Illinois Public Aid Code.

(i) Each chief procurement officer may access records necessary to review whether a contract, purchase, or other expenditure is or is not subject to the provisions of this Code, unless such records would be subject to attorney-client privilege.

(j) This Code does not apply to the process used by the Capital Development Board to retain an artist or works of art as required in Section 14 of the Capital Development Board Act.

(k) This Code does not apply to the process to procure contracts, or contracts entered into, by the State Board of Elections or the State Electoral Board for hearing officers appointed pursuant to the Election Code.

(1) This Code does not apply to the processes used by the Illinois Student Assistance Commission to procure supplies and services paid for from the private funds of the Illinois Prepaid Tuition Fund. As used in this subsection (1), "private funds" means funds derived from deposits paid into the Illinois Prepaid Tuition Trust Fund and the earnings thereon.

(m) This Code shall apply regardless of the source of funds with which contracts are paid, including federal assistance moneys. Except as specifically provided in this Code, this Code shall not apply to procurement expenditures necessary for the Department of Public Health to conduct the Healthy Illinois Survey in accordance with Section 2310-431 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois.

(Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662, eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22.)

Section 15. The Firearm Owners Identification Card Act is amended by changing Sections 2, 4, and 8 and by adding Section 4.1 as follows:

(430 ILCS 65/2) (from Ch. 38, par. 83-2)

Sec. 2. Firearm Owner's Identification Card required; exceptions.

(a) (1) No person may acquire or possess any firearm, stun gun, or taser within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name by the Illinois State Police under the provisions of this Act.

(2) No person may acquire or possess firearm ammunition within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name by the Illinois State Police under the provisions of this Act.

(b) The provisions of this Section regarding the possession of firearms, firearm ammunition, stun guns, and tasers do not apply to:

(1) United States Marshals, while engaged in the operation of their official duties;

(2) Members of the Armed Forces of the United States or the National Guard, while engaged in the operation of their official duties;

(3) Federal officials required to carry firearms, while engaged in the operation of their official duties;

(4) Members of bona fide veterans organizations which receive firearms directly from the armed forces of the United States, while using the firearms for ceremonial purposes with blank ammunition;

(5) Nonresident hunters during hunting season, with valid nonresident hunting licenses and while in an area where hunting is permitted; however, at all other times and in all other places these persons must have their firearms unloaded and enclosed in a case;

(6) Those hunters exempt from obtaining a hunting license who are required to submit their Firearm Owner's Identification Card when hunting on Department of Natural Resources owned or managed sites;

(7) Nonresidents while on a firing or shooting range recognized by the Illinois State Police; however, these persons must at all other times and in all other places have their firearms unloaded and enclosed in a case;

(8) Nonresidents while at a firearm showing or display recognized by the Illinois State Police; however, at all other times and in all other places these persons must have their firearms unloaded and enclosed in a case;

(9) Nonresidents whose firearms are unloaded and enclosed in a case;

(10) Nonresidents who are currently licensed or registered to possess a firearm in their resident state;

(11) Unemancipated minors while in the custody and immediate control of their parent or legal guardian or other person in loco parentis to the minor if the parent or legal guardian or other person in loco parentis to the minor has a currently valid Firearm Owner's Identification Card;

(12) Color guards of bona fide veterans organizations or members of bona fide American Legion bands while using firearms for ceremonial purposes with blank ammunition;

(13) Nonresident hunters whose state of residence does not require them to be licensed or registered to possess a firearm and only during hunting season, with valid hunting licenses, while accompanied by, and using a firearm owned by, a person who possesses a valid Firearm Owner's Identification Card and while in an area within a commercial club licensed under the Wildlife Code where hunting is permitted and controlled, but in no instance upon sites owned or managed by the Department of Natural Resources;

(14) Resident hunters who are properly authorized to hunt and, while accompanied by a person who possesses a valid Firearm Owner's Identification Card, hunt in an area within a commercial club licensed under the Wildlife Code where hunting is permitted and controlled; and

(15) A person who is otherwise eligible to obtain a Firearm Owner's Identification Card under this Act and is under the direct supervision of a holder of a Firearm Owner's Identification Card who is 21 years of age or older while the person is on a firing or shooting range or is a participant in a firearms safety and training course recognized by a law enforcement agency or a national, statewide shooting sports organization; and

(16) Competitive shooting athletes whose competition firearms are sanctioned by the International Olympic Committee, the International Paralympic Committee, the International Shooting Sport Federation, or USA Shooting in connection with such athletes' training for and participation in shooting competitions at the 2016 Olympic and Paralympic Games and sanctioned test events leading up to the 2016 Olympic and Paralympic Games.

(c) The provisions of this Section regarding the acquisition and possession of firearms, firearm ammunition, stun guns, and tasers do not apply to law enforcement officials of this or any other jurisdiction, while engaged in the operation of their official duties.

(c-5) The provisions of paragraphs (1) and (2) of subsection (a) of this Section regarding the possession of firearms and firearm ammunition do not apply to the holder of a valid concealed carry license issued under the Firearm Concealed Carry Act who is in physical possession of the concealed carry license.

(d) Any person who becomes a resident of this State, who is not otherwise prohibited from obtaining, possessing, or using a firearm or firearm ammunition, shall not be required to have a Firearm Owner's Identification Card to possess firearms or firearms ammunition until 60 calendar days after he or she obtains an Illinois driver's license or Illinois Identification Card.

(Source: P.A. 102-538, eff. 8-20-21.)

(430 ILCS 65/4) (from Ch. 38, par. 83-4)

Sec. 4. Application for Firearm Owner's Identification Cards.

(a) Each applicant for a Firearm Owner's Identification Card must:

(1) Submit an application as made available by the Illinois State Police; and

(2) Submit evidence to the Illinois State Police that:

(i) This subparagraph (i) applies through the 180th day following July 12, 2019 (the effective date of Public Act 101-80). He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition and that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Department as prescribed by the Department stating that he or she is not an individual prohibited from having a Card;

(i-5) This subparagraph (i-5) applies on and after the 181st day following July 12, 2019 (the effective date of Public Act 101-80). He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and is an active duty member of the United States Armed Forces or the Illinois National Guard or has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Illinois State Police as prescribed by the Illinois State Police stating that he or she is not an individual prohibited from having a Card or the active duty member of the United States Armed Forces or the Illinois National Guard under 21 years of age annually submits proof to the Illinois State Police, in a manner prescribed by the Illinois State Police;

(ii) He or she has not been convicted of a felony under the laws of this or any other jurisdiction;

(iii) He or she is not addicted to narcotics;

(iv) He or she has not been a patient in a mental health facility within the past 5 years or, if he or she has been a patient in a mental health facility more than 5 years ago submit the certification required under subsection (u) of Section 8 of this Act;

(v) He or she is not a person with an intellectual disability;

(vi) He or she is not a noncitizen who is unlawfully present in the United States under the laws of the United States;

(vii) He or she is not subject to an existing order of protection prohibiting him or her from possessing a firearm;

(viii) He or she has not been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(ix) He or she has not been convicted of domestic battery, aggravated domestic battery, or a substantially similar offense in another jurisdiction committed before, on or after January 1, 2012 (the effective date of Public Act 97-158). If the applicant knowingly and intelligently waives the right to have an offense described in this clause (ix) tried by a jury, and by guilty plea or otherwise, results in a conviction for an offense in which a domestic relationship is not a required element of the offense but in which a determination of the applicability of 18 U.S.C. 922(g)(9) is made under Section 112A-11.1 of the Code of Criminal Procedure of 1963, an entry by the court of a judgment of conviction for that offense shall be grounds for denying the issuance of a Firearm Owner's Identification Card under this Section;

(x) (Blank);

(xi) He or she is not a noncitizen who has been admitted to the United States under a non-immigrant visa (as that term is defined in Section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26))), or that he or she is a noncitizen who has been lawfully admitted to the United States under a non-immigrant visa if that noncitizen is:

(1) admitted to the United States for lawful hunting or sporting purposes;

(2) an official representative of a foreign government who is:

(A) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(B) en route to or from another country to which that noncitizen is accredited;

(3) an official of a foreign government or distinguished foreign visitor who has been so designated by the Department of State;

(4) a foreign law enforcement officer of a friendly foreign government entering the United States on official business; or

(5) one who has received a waiver from the Attorney General of the United States pursuant to 18 U.S.C. 922(y)(3);

(xii) He or she is not a minor subject to a petition filed under Section 5-520 of the Juvenile Court Act of 1987 alleging that the minor is a delinquent minor for the commission of an offense that if committed by an adult would be a felony;

(xiii) He or she is not an adult who had been adjudicated a delinquent minor under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony;

(xiv) He or she is a resident of the State of Illinois;

(xv) He or she has not been adjudicated as a person with a mental disability;

(xvi) He or she has not been involuntarily admitted into a mental health facility; and

(xvii) He or she is not a person with a developmental disability; and

(3) Upon request by the Illinois State Police, sign a release on a form prescribed by the Illinois State Police waiving any right to confidentiality and requesting the disclosure to the Illinois State Police of limited mental health institution admission information from another state, the District of Columbia, any other territory of the United States, or a foreign nation concerning the applicant for the sole purpose of determining whether the applicant is or was a patient in a mental health institution and disqualified because of that status from receiving a Firearm Owner's Identification Card. No mental health care or treatment records may be requested. The information received shall be destroyed within one year of receipt.

(a-5) Each applicant for a Firearm Owner's Identification Card who is over the age of 18 shall furnish to the Illinois State Police either his or her Illinois driver's license number or Illinois Identification Card number, except as provided in subsection (a-10).

(a-10) Each applicant for a Firearm Owner's Identification Card, who is employed as a law enforcement officer, an armed security officer in Illinois, or by the United States Military permanently assigned in Illinois and who is not an Illinois resident, shall furnish to the Illinois State Police his or her driver's license number or state identification card number from his or her state of residence. The Illinois State Police may adopt rules to enforce the provisions of this subsection (a-10).

(a-15) If an applicant applying for a Firearm Owner's Identification Card moves from the residence address named in the application, he or she shall immediately notify in a form and manner prescribed by the Illinois State Police of that change of address.

(a-20) Each applicant for a Firearm Owner's Identification Card shall furnish to the Illinois State Police his or her photograph. An applicant who is 21 years of age or older seeking a religious exemption to the photograph requirement must furnish with the application an approved copy of United States Department of the Treasury Internal Revenue Service Form 4029. In lieu of a photograph, an applicant regardless of age seeking a religious exemption to the photograph requirement shall submit fingerprints on a form and manner prescribed by the Illinois State Police with his or her application.

(a-25) Beginning January 1, 2023, each applicant for the issuance of a Firearm Owner's Identification Card may include a full set of his or her fingerprints in electronic format to the Illinois State Police, unless the applicant has previously provided a full set of his or her fingerprints to the Illinois State Police under this Act or the Firearm Concealed Carry Act.

The fingerprints must be transmitted through a live scan fingerprint vendor licensed by the Department of Financial and Professional Regulation. The fingerprints shall be checked against the fingerprint records now and hereafter filed in the Illinois State Police and Federal Bureau of Investigation criminal history records databases, including all available State and local criminal history record information files.

The Illinois State Police shall charge applicants a one-time fee for conducting the criminal history record check, which shall be deposited into the State Police Services Fund and shall not exceed the actual cost of the State and national criminal history record check.

(a-26) The Illinois State Police shall research, explore, and report to the General Assembly by January 1, 2022 on the feasibility of permitting voluntarily submitted fingerprints obtained for purposes other than Firearm Owner's Identification Card enforcement that are contained in the Illinois State Police database for purposes of this Act.

(b) Each application form shall include the following statement printed in bold type: "Warning: Entering false information on an application for a Firearm Owner's Identification Card is punishable as a Class 2 felony in accordance with subsection (d-5) of Section 14 of the Firearm Owners Identification Card Act.".

(c) Upon such written consent, pursuant to Section 4, paragraph (a)(2)(i), the parent or legal guardian giving the consent shall be liable for any damages resulting from the applicant's use of firearms or firearm ammunition.

(Source: P.A. 101-80, eff. 7-12-19; 102-237, eff. 1-1-22; 102-538, eff. 8-20-21; 102-813, eff. 5-13-22; 102-1030, eff. 5-27-22.)

(430 ILCS 65/4.1 new)

Sec. 4.1. Assault weapon or .50 caliber rifle endorsement.

(a) The endorsement affidavit form completed pursuant to Section 24-1.9 of the Criminal Code of 2012 must be executed electronically through the individual's Firearm Owner's Identification Card account.

(b) The Illinois State Police shall adopt rules in accordance with this Section for the electronic submission of an endorsement affidavit.

(c) Intentionally entering false information on the endorsement affidavit form is a violation of this Act and is also punishable as perjury under Section 32-2 of the Criminal Code of 2012.

(430 ILCS 65/8) (from Ch. 38, par. 83-8)

Sec. 8. Grounds for denial and revocation. The Illinois State Police has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under this Act only if the Illinois State Police finds that the applicant or the person to whom such card was issued is or was at the time of issuance:

(a) A person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent;

(b) This subsection (b) applies through the 180th day following July 12, 2019 (the effective date of Public Act 101-80). A person under 21 years of age who does not have the written consent of his parent or guardian to acquire and possess firearms and firearm ammunition, or whose parent or guardian has revoked such written consent, or where such parent or guardian does not qualify to have a Firearm Owner's Identification Card;

(b-5) This subsection (b-5) applies on and after the 181st day following July 12, 2019 (the effective date of Public Act 101-80). A person under 21 years of age who is not an active duty

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member of the United States Armed Forces or the Illinois National Guard and does not have the written consent of his or her parent or guardian to acquire and possess firearms and firearm ammunition, or whose parent or guardian has revoked such written consent, or where such parent or guardian does not qualify to have a Firearm Owner's Identification Card;

(c) A person convicted of a felony under the laws of this or any other jurisdiction;

(d) A person addicted to narcotics;

(e) A person who has been a patient of a mental health facility within the past 5 years or a person who has been a patient in a mental health facility more than 5 years ago who has not received the certification required under subsection (u) of this Section. An active law enforcement officer employed by a unit of government or a Department of Corrections employee authorized to possess firearms who is denied, revoked, or has his or her Firearm Owner's Identification Card seized under this subsection (e) may obtain relief as described in subsection (c-5) of Section 10 of this Act if the officer or employee did not act in a manner threatening to the officer or employee, another person, or the public as determined by the treating clinical psychologist or physician, and the officer or employee seeks mental health treatment;

(f) A person whose mental condition is of such a nature that it poses a clear and present danger to the applicant, any other person or persons, or the community;

(g) A person who has an intellectual disability;

(h) A person who intentionally makes a false statement in the Firearm Owner's Identification Card application or endorsement affidavit;

(i) A noncitizen who is unlawfully present in the United States under the laws of the United States;

(i-5) A noncitizen who has been admitted to the United States under a non-immigrant visa (as that term is defined in Section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26))), except that this subsection (i-5) does not apply to any noncitizen who has been lawfully admitted to the United States under a non-immigrant visa if that noncitizen is:

(1) admitted to the United States for lawful hunting or sporting purposes;

(2) an official representative of a foreign government who is:

(A) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(B) en route to or from another country to which that noncitizen is accredited;

(3) an official of a foreign government or distinguished foreign visitor who has been so designated by the Department of State;

(4) a foreign law enforcement officer of a friendly foreign government entering the United States on official business; or

(5) one who has received a waiver from the Attorney General of the United States pursuant to 18 U.S.C. 922(y)(3);

(j) (Blank);

(k) A person who has been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(1) A person who has been convicted of domestic battery, aggravated domestic battery, or a substantially similar offense in another jurisdiction committed before, on or after January 1, 2012 (the effective date of Public Act 97-158). If the applicant or person who has been previously issued a Firearm Owner's Identification Card under this Act knowingly and intelligently waives the right to have an offense described in this paragraph (1) tried by a jury, and by guilty plea or otherwise, results in a conviction for an offense in which a domestic relationship is not a required element of the offense but in which a determination of the applicability of 18 U.S.C. 922(g)(9) is made under Section 112A-11.1 of the Code of Criminal Procedure of 1963, an entry by the court of a judgment of conviction for that offense shall be grounds for denying an application for and for revoking and seizing a Firearm Owner's Identification Card previously issued to the person under this Act;

(m) (Blank);

(n) A person who is prohibited from acquiring or possessing firearms or firearm ammunition by any Illinois State statute or by federal law;

(o) A minor subject to a petition filed under Section 5-520 of the Juvenile Court Act of 1987 alleging that the minor is a delinquent minor for the commission of an offense that if committed by an adult would be a felony;

(p) An adult who had been adjudicated a delinquent minor under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony;

(q) A person who is not a resident of the State of Illinois, except as provided in subsection (a-10) of Section 4;

(r) A person who has been adjudicated as a person with a mental disability;

(s) A person who has been found to have a developmental disability;

(t) A person involuntarily admitted into a mental health facility; or

(u) A person who has had his or her Firearm Owner's Identification Card revoked or denied under subsection (e) of this Section or item (iv) of paragraph (2) of subsection (a) of Section 4 of this Act because he or she was a patient in a mental health facility as provided in subsection (e) of this Section, shall not be permitted to obtain a Firearm Owner's Identification Card, after the 5-year period has lapsed, unless he or she has received a mental health evaluation by a physician, clinical psychologist, or qualified examiner as those terms are defined in the Mental Health and Developmental Disabilities Code, and has received a certification that he or she is not a clear and present danger to himself, herself, or others. The physician, clinical psychologist, or qualified examiner making the certification and his or her employer shall not be held criminally, civilly, or professionally liable for making or not making the certification to a person whose firearm possession rights have been restored through administrative or judicial action under Section 10 or 11 of this Act.

Upon revocation of a person's Firearm Owner's Identification Card, the Illinois State Police shall provide notice to the person and the person shall comply with Section 9.5 of this Act.

(Source: P.A. 101-80, eff. 7-12-19; 102-538, eff. 8-20-21; 102-645, eff. 1-1-22; 102-813, eff. 5-13-22; 102-1030, eff. 5-27-22.)

Section 20. The Firearms Restraining Order Act is amended by changing Sections 40, 45, and 55 as follows:

(430 ILCS 67/40)

Sec. 40. Plenary Six-month orders.

(a) A petitioner may request a <u>plenary 6 month</u> firearms restraining order for up to one year by filing an affidavit or verified pleading alleging that the respondent poses a significant danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm. The petition shall also describe the number, types, and locations of any firearms, ammunition, and firearm parts that could be assembled to make an operable firearm presently believed by the petitioner to be possessed or controlled by the respondent. The plenary firearms restraining order may be renewed for an additional period of up to one year.

(b) If the respondent is alleged to pose a significant danger of causing personal injury to an intimate partner, or an intimate partner is alleged to have been the target of a threat or act of violence by the respondent, the petitioner shall make a good faith effort to provide notice to any and all intimate partners of the respondent. The notice must include the duration of time that the petitioner intends to petition the court for a 6-month firearms restraining order, and, if the petitioner is a law enforcement officer, referral to relevant domestic violence or stalking advocacy or counseling resources, if appropriate. The petitioner shall attest to having provided the notice in the filed affidavit or verified pleading. If, after making a good faith effort, the petitioner is unable to provide notice to any or all intimate partners, the affidavit or verified pleading should describe what efforts were made.

(c) Every person who files a petition for a <u>plenary</u> <u>6 month</u> firearms restraining order, knowing the information provided to the court at any hearing or in the affidavit or verified pleading to be false, is guilty of perjury under Section 32-2 of the Criminal Code of 2012.

(d) Upon receipt of a petition for a <u>plenary</u> <u>6-month</u> firearms restraining order, the court shall order a hearing within 30 days.

(e) In determining whether to issue a firearms restraining order under this Section, the court shall consider evidence including, but not limited to, the following:

(1) The unlawful and reckless use, display, or brandishing of a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm by the respondent.

(2) The history of use, attempted use, or threatened use of physical force by the respondent against another person.

(3) Any prior arrest of the respondent for a felony offense.

(4) Evidence of the abuse of controlled substances or alcohol by the respondent.

(5) A recent threat of violence or act of violence by the respondent directed toward himself, herself, or another.

(6) A violation of an emergency order of protection issued under Section 217 of the Illinois Domestic Violence Act of 1986 or Section 112A-17 of the Code of Criminal Procedure of 1963 or of an order of protection issued under Section 214 of the Illinois Domestic Violence Act of 1986 or Section 112A-14 of the Code of Criminal Procedure of 1963.

(7) A pattern of violent acts or violent threats, including, but not limited to, threats of violence or acts of violence by the respondent directed toward himself, herself, or another.

(f) At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence, that the respondent poses a significant danger of personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm.

(g) If the court finds that there is clear and convincing evidence to issue a <u>plenary</u> firearms restraining order, the court shall issue a <u>plenary</u> firearms restraining order that shall be in effect for <u>up to one year, but</u> not less than 6 months, 6 months subject to renewal under Section 45 of this Act or termination under that Section.

(g-5) If the court issues a <u>plenary</u> 6-month firearms restraining order, it shall, upon a finding of probable cause that the respondent possesses firearms, ammunition, and firearm parts that could be assembled to make an operable firearm, issue a search warrant directing a law enforcement agency to seize the respondent's firearms, ammunition, and firearm parts that could be assembled to make an operable firearm, direct the law enforcement agency to search the respondent's residence and other places where the court finds there is probable cause to believe he or she is likely to possess the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm. A return of the search warrant shall be filed by the law enforcement agency within 4 days thereafter, setting forth the time, date, and location that the search warrant was executed and what items, if any, were seized.

(h) A plenary 6-month firearms restraining order shall require:

 $\overline{(1)}$ the respondent to refrain from having in his or her custody or control, purchasing, possessing, or receiving additional firearms, ammunition, and firearm parts that could be assembled to make an operable firearm for the duration of the order under Section 8.2 of the Firearm Owners Identification Card Act; and

(2) the respondent to comply with Section 9.5 of the Firearm Owners Identification Card Act and subsection (g) of Section 70 of the Firearm Concealed Carry Act.

(i) Except as otherwise provided in subsection (i-5) of this Section, upon expiration of the period of safekeeping, if the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm or Firearm Owner's Identification Card cannot be returned to the respondent because the respondent cannot be located, fails to respond to requests to retrieve the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm, or is not lawfully eligible to possess a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm, and firearm parts that could be assembled to make an operable firearm, and firearm parts that could be assembled to make an operable firearm, upon petition from the local law enforcement agency, the court may order the local law enforcement agency to destroy the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm, use the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm for training purposes, or use the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm for training purposes, or use the firearms, ammunition, and direarm parts that could be assembled to make an operable firearm for training purposes, or use the firearms, ammunition, and direarm parts that could be assembled to make an operable firearm for training purposes, or use the firearms, ammunition, and direarm parts that could be assembled to make an operable firearm for training purposes, or use the firearms, ammunition, and direarm parts that could be assembled to make an operable firearm for training purposes, or use the firearms, ammunition, and direarm parts that could be assembled to make an operable firearm for training purposes, or use the firearms, ammunition, and direarm parts that could be assembled to make an operable firearm for the firearm for any other application as deemed appropriate by the local law enforcement agency.

(i-5) A respondent whose Firearm Owner's Identification Card has been revoked or suspended may petition the court, if the petitioner is present in court or has notice of the respondent's petition, to transfer the respondent's firearm, ammunition, and firearm parts that could be assembled to make an operable firearm to a person who is lawfully able to possess the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm if the person does not reside at the same address as the respondent. Notice of the petition shall be served upon the person protected by the emergency firearms restraining order. While the order is in effect, the transferee who receives the respondent's firearms, ammunition, and firearm parts that

could be assembled to make an operable firearm must swear or affirm by affidavit that he or she shall not transfer the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm to the respondent or to anyone residing in the same residence as the respondent.

(i-6) If a person other than the respondent claims title to any firearms, ammunition, and firearm parts that could be assembled to make an operable firearm surrendered under this Section, he or she may petition the court, if the petitioner is present in court or has notice of the petition, to have the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm returned to him or her. If the court determines that person to be the lawful owner of the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm, the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm shall be returned to him or her, provided that:

(1) the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm are removed from the respondent's custody, control, or possession and the lawful owner agrees to store the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm in a manner such that the respondent does not have access to or control of the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm; and

(2) the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm are not otherwise unlawfully possessed by the owner.

The person petitioning for the return of his or her firearm, ammunition, and firearm parts that could be assembled to make an operable firearm must swear or affirm by affidavit that he or she: (i) is the lawful owner of the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm; (ii) shall not transfer the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm to the respondent; and (iii) will store the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm in a manner that the respondent does not have access to or control of the firearm, ammunition, and firearm parts that could be assembled to make an operable firearm.

(j) If the court does not issue a <u>plenary</u> firearms restraining order at the hearing, the court shall dissolve any emergency firearms restraining order then in effect.

(k) When the court issues a <u>plenary</u> firearms restraining order under this Section, the court shall inform the respondent that he or she is entitled to one hearing during the period of the order to request a termination of the order, under Section 45 of this Act, and shall provide the respondent with a form to request a hearing.

(Source: P.A. 101-81, eff. 7-12-19; 102-237, eff. 1-1-22; 102-345, eff. 6-1-22; 102-538, eff. 8-20-21; 102-813, eff. 5-13-22.)

(430 ILCS 67/45)

Sec. 45. Termination and renewal.

(a) A person subject to a firearms restraining order issued under this Act may submit one written request at any time during the effective period of the order for a hearing to terminate the order.

(1) The respondent shall have the burden of proving by a preponderance of the evidence that the respondent does not pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm.

(2) If the court finds after the hearing that the respondent has met his or her burden, the court shall terminate the order.

(b) A petitioner may request a renewal of a firearms restraining order at any time within the 3 months before the expiration of a firearms restraining order.

(1) A court shall, after notice and a hearing, renew a firearms restraining order issued under this part if the petitioner proves, by clear and convincing evidence, that the respondent continues to pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm.

(2) In determining whether to renew a firearms restraining order issued under this Act, the court shall consider evidence of the facts identified in subsection (e) of Section 40 of this Act and any other evidence of an increased risk for violence.

(3) At the hearing, the petitioner shall have the burden of proving by clear and convincing evidence that the respondent continues to pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or

receiving a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm.

(4) The renewal of a firearms restraining order issued under this Section shall be in effect for up to one year 6 months, subject to termination by further order of the court at a hearing held under this Section and further renewal by further order of the court under this Section.

(Source: P.A. 101-81, eff. 7-12-19; 102-345, eff. 6-1-22.)

(430 ILCS 67/55)

Sec. 55. Data maintenance by law enforcement agencies.

(a) All sheriffs shall furnish to the Illinois State Police, daily, in the form and detail the <u>Illinois State</u> <u>Police Department</u> requires, copies of any recorded firearms restraining orders issued by the court, and any foreign orders of protection filed by the clerk of the court, and transmitted to the sheriff by the clerk of the court under Section 50. Each firearms restraining order shall be entered in the Law Enforcement Agencies Data System (LEADS) on the same day it is issued by the court. If an emergency firearms restraining order was issued in accordance with Section 35 of this Act, the order shall be entered in the Law Enforcement Agencies Data System (LEADS) as soon as possible after receipt from the clerk.

(b) The Illinois State Police shall maintain a complete and systematic record and index of all valid and recorded firearms restraining orders issued or filed under this Act. The data shall be used to inform all dispatchers and law enforcement officers at the scene of a violation of a firearms restraining order of the effective dates and terms of any recorded order of protection.

(c) The data, records, and transmittals required under this Section shall pertain to any valid emergency or <u>plenary</u> 6 month firearms restraining order, whether issued in a civil or criminal proceeding or authorized under the laws of another state, tribe, or United States territory.

(Source: P.A. 101-81, eff. 7-12-19; 102-538, eff. 8-20-21.)

Section 25. The Criminal Code of 2012 is amended by changing Section 24-1 and by adding Sections 24-1.9 and 24-1.10 as follows:

(720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

Sec. 24-1. Unlawful use of weapons.

(a) A person commits the offense of unlawful use of weapons when he knowingly:

(1) Sells, manufactures, purchases, possesses or carries any bludgeon, black-jack, slung-shot, sand-club, sand-bag, metal knuckles or other knuckle weapon regardless of its composition, throwing star, or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or a ballistic knife, which is a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material or compressed gas; or

(2) Carries or possesses with intent to use the same unlawfully against another, a dagger, dirk, billy, dangerous knife, razor, stiletto, broken bottle or other piece of glass, stun gun or taser or any other dangerous or deadly weapon or instrument of like character; or

(2.5) Carries or possesses with intent to use the same unlawfully against another, any firearm in a church, synagogue, mosque, or other building, structure, or place used for religious worship; or

(3) Carries on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance, other than an object containing a non-lethal noxious liquid gas or substance designed solely for personal defense carried by a person 18 years of age or older; or

(4) Carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm, except that this subsection (a) (4) does not apply to or affect transportation of weapons that meet one of the following conditions:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card; or

(iv) are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act; or

(5) Sets a spring gun; or

(6) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or carries:

(i) a machine gun, which shall be defined for the purposes of this subsection as any weapon, which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manually reloading by a single function of the trigger, including the frame or receiver of any such weapon, or sells, manufactures, purchases, possesses, or carries any combination of parts designed or intended for use in converting any weapon into a machine gun, or any combination or parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person;

(ii) any rifle having one or more barrels less than 16 inches in length or a shotgun having one or more barrels less than 18 inches in length or any weapon made from a rifle or shotgun, whether by alteration, modification, or otherwise, if such a weapon as modified has an overall length of less than 26 inches; or

(iii) any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes, such as, but not limited to, black powder bombs and Molotov cocktails or artillery projectiles; or

(8) Carries or possesses any firearm, stun gun or taser or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted.

This subsection (a)(8) does not apply to any auction or raffle of a firearm held pursuant to a license or permit issued by a governmental body, nor does it apply to persons engaged in firearm safety training courses; or

(9) Carries or possesses in a vehicle or on or about his or her person any pistol, revolver, stun gun or taser or firearm or ballistic knife, when he or she is hooded, robed or masked in such manner as to conceal his or her identity; or

(10) Carries or possesses on or about his or her person, upon any public street, alley, or other public lands within the corporate limits of a city, village, or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his land or in his or her own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun, or taser or other firearm, except that this subsection (a) (10) does not apply to or affect transportation of weapons that meet one of the following conditions:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card; or

(iv) are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act.

A "stun gun or taser", as used in this paragraph (a) means (i) any device which is powered by electrical charging units, such as, batteries, and which fires one or several barbs attached to a length of wire and which, upon hitting a human, can send out a current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning or (ii) any device which is powered by electrical charging units, such as batteries, and which, upon contact with a human or clothing worn by a human, can send out current capable of disrupting the person's nervous system in such a manner as to render him incapable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning; or

(11) Sells, manufactures, or purchases any explosive bullet. For purposes of this paragraph (a) "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. "Cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap; or

(13) Carries or possesses on or about his or her person while in a building occupied by a unit of government, a billy club, other weapon of like character, or other instrument of like character intended for use as a weapon. For the purposes of this Section, "billy club" means a short stick or club commonly carried by police officers which is either telescopic or constructed of a solid piece of wood or other man-made material; or

(14) Manufactures, possesses, sells, or offers to sell, purchase, manufacture, import, transfer, or use any device, part, kit, tool, accessory, or combination of parts that is designed to and functions to increase the rate of fire of a semiautomatic firearm above the standard rate of fire for semiautomatic firearms that is not equipped with that device, part, or combination of parts.

(c) Violations in specific places.

(1) A person who violates subsection 24-1(a)(6) or 24-1(a)(7) in any school, regardless of the time of day or the time of year, in residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park, in a courthouse, on the real property comprising any school, regardless of the time of day or the time of year, on residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any school, regardless of the time of day or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any public park, on the real property comprising any courthouse, in any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, in any conveyance owned, leased, or contracted by a public transportation agency, or on any public transportation facility, or residential property comprising any school, public park, courthouse, public transportation facility, or residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development commits a Class 2 felony and shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years.

(1.5) A person who violates subsection 24-1(a)(4), 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the time of day or the time of year, in residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park, in a courthouse, on the real property comprising any school, regardless of the time of day or the time of year, on residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any public park, or the real property comprising any courthouse, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, in any conveyance owned, leased, or contracted by a public transportation agency, or on any public way within 1,000 feet of the real property owned, operated, or managed by a public housing agency or leased by a public transportation agency, and public thousing agency or leased by a public based, or contracted of the real property comprising any school, public park, courthouse, public transportation facility, or residential property owned, operated, or managed by a public housing agency or leased by a field by a public housing agency as part of a scattered site or mixed-income development commits a Class 3 felony.

(2) A person who violates subsection 24-1(a)(1), 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the time of day or the time of year, in residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park, in a courthouse, on the real property comprising any school, regardless of the time of day or the time of year, on residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or

mixed-income development, on the real property comprising any public park, on the real property comprising any courthouse, in any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, in any conveyance owned, leased, or contracted by a public transportation agency, or on any public way within 1,000 feet of the real property comprising any school, public park, courthouse, public transportation facility, or residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development commits a Class 4 felony. "Courthouse" means any building that is used by the Circuit, Appellate, or Supreme Court of this State for the conduct of official business.

(3) Paragraphs (1), (1.5), and (2) of this subsection (c) shall not apply to law enforcement officers or security officers of such school, college, or university or to students carrying or possessing firearms for use in training courses, parades, hunting, target shooting on school ranges, or otherwise with the consent of school authorities and which firearms are transported unloaded enclosed in a suitable case, box, or transportation package.

(4) For the purposes of this subsection (c), "school" means any public or private elementary or secondary school, community college, college, or university.

(5) For the purposes of this subsection (c), "public transportation agency" means a public or private agency that provides for the transportation or conveyance of persons by means available to the general public, except for transportation by automobiles not used for conveyance of the general public as passengers; and "public transportation facility" means a terminal or other place where one may obtain public transportation.

(d) The presence in an automobile other than a public omnibus of any weapon, instrument or substance referred to in subsection (a)(7) is prima facie evidence that it is in the possession of, and is being carried by, all persons occupying such automobile at the time such weapon, instrument or substance is found, except under the following circumstances: (i) if such weapon, instrument or instrumentality is found upon the person of one of the occupants therein; or (ii) if such weapon, instrument or substance is found in an automobile operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his or her trade, then such presumption shall not apply to the driver.

(e) Exemptions.

(1) Crossbows, Common or Compound bows and Underwater Spearguns are exempted from the definition of ballistic knife as defined in paragraph (1) of subsection (a) of this Section.

(2) The provision of paragraph (1) of subsection (a) of this Section prohibiting the sale, manufacture, purchase, possession, or carrying of any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, does not apply to a person who possesses a currently valid Firearm Owner's Identification Card previously issued in his or her name by the Illinois State Police or to a person or an entity engaged in the business of selling or manufacturing switchblade knives.

(Source: P.A. 101-223, eff. 1-1-20; 102-538, eff. 8-20-21.)

(720 ILCS 5/24-1.9 new)

Sec. 24-1.9. Possession, delivery, sale, and purchase of assault weapons, .50 caliber rifles, and .50 caliber cartridges.

(a) Definitions. In this Section:

(1) "Assault pistol" means any of the following or a copy, regardless of the producer or manufacturer:

(A) AA Arms AP-9 pistol.

(B) Armalite M15 11.5 pistol.

(C) Beretta 93R pistol.

(D) Bushmaster pistol.

(E) Claridge HI-TEC pistol.

(F) D Max Industries pistol.

(G) Encom MK-IV, MP-9, or MP-45 pistol.

(H) Heckler and Koch MP5K, MP7, SP-89, or VP70M pistol.

(I) Holmes MP-83 pistol.

(J) Ingram MAC 10/11 pistol and variations, including the Partisan Avenger and the SWD Cobray.

(K) Intratec TEC-9/DC-9 pistol in any centerfire variation.

(L) P.A.W.S. type pistol.

(M) Skorpion pistol.

(N) Spectre double action pistol (Sile, F.I.E., Mitchell).

(O) Stechkin automatic pistol.

(P) Steyr tactical pistol.

(Q) UZI pistol.

(R) Weaver Arms Nighthawk pistol.

(S) Wilkinson "Linda" pistol.

(2) "Assault shotgun or rifle" means any of the following or a copy, regardless of the producer or manufacturer:

(A) American Arms Spectre da Semiautomatic carbine. (B) AR10. (C) AR15. (D) AR70. (E) Armalite M15. (F) Avtomat Kalashnikov semiautomatic rifle in any format, including the AK-47 in all forms. (G) Algimec AGM-1 type semi-auto. (H) AR 100 type semi-auto. (I) AR 180 type semi-auto. (J) Argentine L.S.R. semi-auto. (K) Australian Automatic Arms SAR type semi-auto. (L) Auto-Ordnance Thompson M1 and 1927 semi-automatics. (M) Barrett light .50 cal. semi-auto. (N) Beretta AR70 type semi-auto. (O) Bushmaster semi-auto rifle. (P) Calico models M-100 and M-900. (Q) CIS SR 88 type semi-auto. (R) Claridge HI TEC C-9 carbines. (S) Colt AR-15, CAR-15, and all imitations. (T) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and K-2. (U) Dragunov Chinese made semi-auto. (V) Famas semi-auto (.223 caliber). (W) Feather AT-9 semi-auto. (X) FN LAR and FN FAL assault rifle. (Y) FNC semi-auto type carbine. (Z) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun. (AA) Smith & Wesson M&P 15. (BB) Steyr-AUG-SA semi-auto. (CC) Galil models AR and ARM semi-auto. (DD) Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and A3. (EE) Holmes model 88 shotgun. (FF) Manchester Arms "Commando" MK-45, MK-9. (GG) Mandell TAC-1 semi-auto carbine. (HH) Mossberg model 500 Bullpup assault shotgun. (II) Sterling Mark 6. (JJ) P.A.W.S. carbine. (KK) Ruger mini-14 folding stock model (.223 caliber). (LL) SIG 550/551 assault rifle (.223 caliber). (MM) SKS with detachable magazine. (NN) AP-74 Commando type semi-auto. (OO) Springfield Armory BM-59, SAR-48, G3, SAR-3, M-21 sniper rifle, and M1A, excluding the M1 Garand. (PP) Street sweeper assault type shotgun. (QQ) Striker 12 assault shotgun in all formats. (RR) Unique F11 semi-auto type. (SS) Daewoo USAS 12 semi-auto shotgun.

(TT) UZI 9mm carbine or rifle.

(UU) Valmet M-76 and M-78 semi-auto.

(VV) Weaver Arms "Nighthawk" semi-auto carbine.

(WW) Wilkinson Arms 9mm semi-auto "Terry".

(3) "Assault weapon" means:

(A) An assault shotgun or rifle.

(B) An assault pistol.

(C) A semiautomatic rifle that can accept or can be modified to accept a detachable magazine and has at least one of the following:

(i) A folding, telescoping, or collapsible stock.

(ii) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing.

(iii) A forward grip.

(iv) A flash suppressor.

(v) A grenade launcher or flare launcher.

(D) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

(E) A semiautomatic pistol that can accept a detachable magazine and has at least one of the following:

(i) An ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip.

(ii) A threaded barrel capable of accepting a flash suppressor, forward pistol grip or silencer.

(iii) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to fire the firearm without being burned, except a slide that encloses the barrel.

(iv) A second hand grip.

(F) A semiautomatic shotgun that has at least one of the following:

(i) A folding, telescoping, or collapsible stock.

(ii) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing.

(G) A semiautomatic shotgun that has the ability to accept a detachable magazine.

(H) A shotgun with a revolving cylinder.

(I) A semiautomatic pistol with a fixed magazine that can accept more than 12 rounds.

(J) A semiautomatic, centerfire rifle that has a fixed magazine that can accept more than 12 rounds.

"Assault weapon" does not include:

(A) any firearm that:

(i) is an unserviceable firearm or has been made permanently inoperable;

(ii) is an antique firearm; or

(iii) uses .22 caliber rimfire ammunition or cartridges; or

(B) any air rifle as defined in Section 24.8-0.1 of this Code.

In this Section, a firearm is considered to have the ability to accept a detachable magazine unless the magazine or ammunition feeding device can only be removed through disassembly of the firearm action.

(4) "Assault weapon attachment" means any device capable of being attached to a firearm that is specifically designed for making or converting a firearm into any of the firearms listed in paragraph (1) of this subsection (a).

(5) "Antique firearm" has the meaning ascribed to it in 18 U.S.C. 921(a)(16).

(6) ".50 caliber rifle" means a centerfire rifle capable of firing a .50 caliber cartridge. The term does not include any antique firearm, any shotgun including a shotgun that has a rifle barrel, or any muzzle-loader which uses black powder for hunting or historical reenactments.

(7) ".50 caliber cartridge" means a cartridge in .50 BMG caliber, either by designation or actual measurement, that is capable of being fired from a centerfire rifle. The term ".50 caliber cartridge" does not include any memorabilia or display item that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as live ammunition or shotgun ammunition with a caliber measurement that is equal to or greater than .50 caliber.

(8) "Detachable magazine" means an ammunition feeding device that can be removed readily from a firearm without requiring disassembly of the firearm action or without the use of a tool, including a bullet or cartridge.

(b) Except as provided in subsections (c), (d), and (e), on or after the effective date of this amendatory Act of the 102nd General Assembly, it is unlawful for any person within this State to knowingly manufacture, deliver, sell, or purchase or cause to be manufactured, delivered, sold, or purchased by another, an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge.

(c) Except as otherwise provided in subsection (d), 300 days after the effective date of this amendatory Act of the 102nd General Assembly, it is unlawful for any person within this State to knowingly possess an assault weapon, .50 caliber rifle, assault weapon attachment, or .50 caliber cartridge.

(d) This Section does not apply to a person who possessed an assault weapon, assault weapon attachment, or .50 caliber rifle prohibited by subsection (c) of this Section before the effective date of this amendatory Act of the 102nd General Assembly, if the person has provided in an endorsement affidavit, under oath or affirmation and in the form and manner prescribed by the Illinois State Police on or after 180 days after the effective date of this amendatory Act of the 102nd General Assembly but within 300 days after the effective date of this amendatory Act of the 102nd General Assembly:

(1) the affiant's Firearm Owner's Identification Card number;

(2) the serial number of the weapon or weapons;

(3) an affirmation that the affiant possessed the weapon or weapons identified before the effective date of this amendatory Act of the 102nd General Assembly.

The affidavit form shall include the following statement printed in bold type: "Warning: Entering false information on this form is punishable as perjury under Section 32-2 of the Criminal Code of 2012. Entering false information on this form is a violation of the Firearm Owners Identification Card Act."

In any administrative, civil, or criminal proceeding in this State, a completed assault weapon or .50 caliber rifle endorsement affidavit submitted to the Illinois State Police by the individual as required by this Section creates the rebuttable presumption that a person lawfully possessed or had completed a purchase of the assault weapon or .50 caliber rifle before the effective date of this amendatory Act of the 102nd General Assembly and is entitled to continue to possess and transport the assault weapon.

Beginning 300 days after the effective date of this amendatory Act of the 102nd General Assembly, the person with an assault weapon or .50 caliber rifle endorsement may transfer the assault weapon or .50 caliber rifle only to an heir, an individual residing in another state maintaining it in another state, or a dealer licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968. Within 10 days after transfer of the weapon except to an heir, the person shall notify the Illinois State Police of the name and address of the transferee and comply with the requirements of subsection (b) of Section 3 of the Firearm Owners Identification Card Act. If a resident of this State, the heir to whom the weapon is transferred shall, within 60 days of the transfer, complete an affidavit required under this Section. A person to whom the weapon is transferred may transfer it only as provided in this subsection.

Except for any active-duty member of the United States military who is transferred into this State on or after the effective date of this amendatory Act of the 102nd General Assembly, any person who moves into this State in possession of an assault weapon shall render the assault weapon or .50 caliber rifle permanently inoperable, sell the assault weapon or .50 caliber rifle to a federally licensed firearm dealer outside of this State, or remove the assault weapon or .50 caliber rifle from this State.

Notwithstanding any other law, information contained in the endorsement affidavit shall be confidential and shall not be disclosed, except to law enforcement agencies acting in the performance of their duties.

(e) This Section does not apply to or affect any of the following:

(1) Peace officers, as defined in Section 2-13 of this Code.

(2) Retired or separated peace officers, as defined in Section 2-13 of this Code, who retired or separated from their respective law enforcement agencies in good standing after 10 or more years of service.

(3) Acquisition and possession by a local law enforcement agency for the purpose of equipping the agency's peace officers, as defined in paragraph (1) of this subsection (e).

(4) Wardens, superintendents, and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense.

(5) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while performing their official duties or while traveling to or from their places of duty.

(6) Any company that employs armed security officers in this State at a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission and any person employed as an armed security force member at a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission who has completed the background screening and training mandated by the rules and regulations of the federal Nuclear Regulatory Commission and while performing official duties.

(7) Manufacture, transportation, or sale of weapons, attachments, or ammunition to persons authorized under subdivisions (1) through (6) of this subsection (e) to possess those items.

(8) Possession of any firearm if that firearm is sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, but only when the firearm is in the actual possession of an Olympic target shooting competitor or target shooting coach for the purpose of storage, transporting to and from Olympic target shooting practice or events if the firearm is broken down in a nonfunctioning state, is not immediately accessible, or is unloaded and enclosed in a firearm case, carrying box, shipping box, or other similar portable container designed for the safe transportation of firearms, and when the Olympic target shooting competitor or target shooting coach is engaging in those practices or events. For the purposes of this paragraph (8), "firearm" has the meaning provided in Section 1.1 of the Firearm Owners Identification Card Act.

(9) Any nonresident who transports, within 24 hours, a weapon for any lawful purpose from any place where the nonresident may lawfully possess and carry that weapon to any other place where the nonresident may lawfully possess and carry that weapon if, during the transportation, the weapon is unloaded, and neither the weapon nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of the transporting vehicle. In the case of a vehicle without a compartment separate from the driver's compartment, the weapon or ammunition shall be contained in a locked container other than the glove compartment or console.

(10) Possession of a weapon at an event taking place at the World Shooting and Recreational Complex at Sparta, only while engaged in the legal use of the weapon, or while traveling to or from that location if the weapon is broken down in a nonfunctioning state, is not immediately accessible, or is unloaded and enclosed in a firearm case, carrying box, shipping box, or other similar portable container designed for the safe transportation of firearms.

(11) Possession of a weapon only for hunting use expressly permitted under the Wildlife Code, or while traveling to or from a location authorized for this hunting use under the Wildlife Code if the weapon is broken down in a nonfunctioning state, is not immediately accessible, or is unloaded and enclosed in a firearm case, carrying box, shipping box, or other similar portable container designed for the safe transportation of firearms.

(12) The manufacture, transportation, possession, sale, or rental of blank-firing assault weapons and .50 caliber rifles, or the weapon's respective attachments, to persons authorized or permitted, or both authorized and permitted, to acquire and possess these weapons or attachments for the purpose of rental for use solely as props for a motion picture, television, or video production or entertainment event.

Any person not subject to this Section may submit an endorsement affidavit if the person chooses.

Federally licensed firearm manufacturers in Illinois holding a type 6, 7, or 10 license are not subject to the prohibitions under this Section as it relates to manufacturing, transporting, possessing, and selling to lawful purchasers.

(f) Sentence.

(1) A person who knowingly manufactures, delivers, sells, purchases, or possesses or causes to be manufactured, delivered, sold, purchased, or possessed an assault weapon in violation of this Section commits a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation or for the possession or delivery of 2 or more of these weapons at the same time.

(2) A person who knowingly manufactures, delivers, sells, purchases, or possesses or causes to be manufactured, delivered, sold, purchased, or possessed in violation of this Section an assault weapon attachment commits a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation.

(3) A person who knowingly manufactures, delivers, sells, purchases, or possesses or causes to be manufactured, delivered, sold, purchased, or possessed in violation of this Section a .50 caliber rifle commits a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation or for the possession or delivery of 2 or more of these weapons at the same time.

(4) A person who knowingly manufactures, delivers, sells, purchases, or possesses or causes to be manufactured, delivered, sold, purchased, or possessed in violation of this Section a .50 caliber cartridge commits a Class A misdemeanor.

(5) Any other violation of this Section is a Class A misdemeanor.

(g) The Illinois State Police shall take all steps necessary to carry out the requirements of this Section within 180 days after the effective date of this amendatory Act of the 102nd General Assembly.

(720 ILCS 5/24-1.10 new)

Sec. 24-1.10. Manufacture, delivery, or sale of large capacity ammunition feeding devices. (a) In this Section:

"Large capacity ammunition feeding device" means:

(1) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 12 rounds of ammunition; or

(2) any combination of parts from which a device described in paragraph (1) can be assembled.

"Large capacity ammunition feeding device" does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition. "Large capacity ammunition feeding device" does not include a tubular magazine that is contained in a lever-action firearm or any device that has been made permanently inoperable.

(b) Except as provided in subsection (c) and (d), it is unlawful for any person within this State to knowingly manufacture, deliver, sell, purchase, or possess or cause to be manufactured, delivered, sold, or purchased a large capacity ammunition feeding device.

(c) This Section does not apply to any person who possesses a large capacity ammunition feeding device if, within 90 days of the effective date of this amendatory Act of the 102nd General Assembly, the person:

(1) permanently modifies the large capacity ammunition feeding device such that it cannot hold more than 12 rounds of ammunition;

(2) surrenders the large capacity ammunition feeding device to Illinois State Police or another law enforcement agency within this State in accordance with the procedures for surrender of weapons set forth by the law enforcement agency; or

(3) transfers or sells the large capacity ammunition feeding device to a federally licensed firearm dealer or person or firm outside of this State that is lawfully entitled to own or possess such a device.

(d) This Section does not apply to or affect any of the following:

(1) Peace officers, as defined in Section 2-13 of this Code.

(2) A local law enforcement agency for the purpose of equipping the agency's peace officers, as defined in paragraph (1) of this subsection (d).

(3) Wardens, superintendents, and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense.

(4) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while their official duties or while traveling to or from their places of duty.

(5) Any company that employs armed security officers in this State at a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission and any person employed as an armed security force member at a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission who has completed the background screening and training mandated by the rules and regulations of the federal Nuclear Regulatory Commission and while performing official duties.

(6) Sale of large capacity ammunition feeding devices to persons authorized under subdivisions (1) through (5) of this subsection (d) to possess those devices.

(7) Sale or rental of large capacity ammunition feeding devices for blank-firing assault weapons and .50 caliber rifles, to persons authorized or permitted, or both authorized and permitted, to acquire these devices for the purpose of rental for use solely as props for a motion picture, television, or video production or entertainment event. (d) Sentence. A person who knowingly delivers, sells, purchases, or causes to be delivered, sold, or purchased in violation of this Section a large capacity ammunition feeding device capable of holding more than 12 rounds of ammunition commits a petty offense with a fine of \$1,000 for each violation.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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

Under the rules, the foregoing **Senate Bill No. 2226**, with House Amendments numbered 1 and 3, was referred to the Secretary's Desk.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Villa, **House Bill No. 1688** was taken up, read by title a second time. Floor Amendment No. 1 was referred to the Committee on Assignments earlier today. There being no further amendments, the bill was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Wilcox, **House Bill No. 2369** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 48; NAYS None.

The following voted in the affirmative:

Anderson	Glowiak Hilton	McConchie	Tharp
Aquino	Hall	Morrison	Turner, D.
Bailey	Harris	Murphy	Turner, S.
Belt	Hastings	Pacione-Zayas	Van Pelt
Bennett	Holmes	Pappas	Villa
Cervantes	Hunter	Peters	Villanueva
Collins	Jones, E.	Rezin	Villivalam
Cunningham	Joyce	Rose	Wilcox
Curran	Koehler	Simmons	Mr. President
DeWitte	Loughran Cappel	Sims	
Ellman	Martwick	Stadelman	
Fine	Mattson	Stoller	
Fowler	McClure	Syverson	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

Senator Johnson asked and obtained unanimous consent for the Journal to reflect her intention to have voted in the affirmative on **House Bill No. 2369**.

HOUSE BILL RECALLED

On motion of Senator Pacione-Zayas, **House Bill No. 3878** was recalled from the order of third reading to the order of second reading.

[January 6, 2023]

Senator Pacione-Zayas offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO HOUSE BILL 3878

AMENDMENT NO. <u>3</u>. Amend House Bill 3878 by replacing line 25 on page 29 through line 4 on page 30 as follows:

"(9) One member representing a local administering agency from a rural area, appointed by the Governor; as used in this paragraph, "rural area" means an area of the State that is not specifically named in paragraph (7) or (8).

(10) Three members from an organization representing Illinois county clerks and recorders, appointed by the Governor, as follows:

(A) one member from Cook County (excluding Chicago), DuPage County, Lake County, Kane County, Will County, or McHenry County;

(B) one member from a small metropolitan area from one of the following areas: the cities of Springfield, Rockford, Peoria, Decatur, Champaign, Urbana, Bloomington, Normal, Rock Island, DeKalb, Moline, Pekin, or Rantoul or Madison County or St. Clair County; and

(C) one member from a rural area, appointed by the Governor; as used in this subparagraph, "rural area" means an area of the State that is not specifically named in subparagraph (A) or (B).".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Pacione-Zayas, **House Bill No. 3878** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 34; NAYS 18; Present 1.

The following voted in the affirmative:

Aquino	Feigenholtz	Koehler	Sims
Belt	Fine	Lightford	Stadelman
Bennett	Hall	Martwick	Van Pelt
Castro	Harris	Morrison	Villa
Cervantes	Hastings	Murphy	Villanueva
Collins	Holmes	Pacione-Zayas	Villivalam
Cunningham	Hunter	Peters	Mr. President
DeWitte	Johnson	Rezin	
Ellman	Jones, E.	Simmons	
The following vote	d in the negative:		
Anderson	Glowiak Hilton	McConchie	Turner, D.
Bailey	Joyce	Rose	Turner, S.
Bryant	Loughran Cappel	Stoller	Wilcox
Curran	Mattson	Syverson	
Fowler	McClure	Tharp	

The following voted present:

Pappas

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Pacione-Zayas, **House Bill No. 5285** was recalled from the order of third reading to the order of second reading.

Senator Pacione-Zayas offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 5285

AMENDMENT NO. 1. Amend House Bill 5285 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 34-8.1 as follows:

(105 ILCS 5/34-8.1) (from Ch. 122, par. 34-8.1)

Sec. 34-8.1. Principals. Principals shall be employed to supervise the operation of each attendance center. Their powers and duties shall include but not be limited to the authority (i) to direct, supervise, evaluate, and suspend with or without pay or otherwise discipline all teachers, assistant principals, and other employees assigned to the attendance center in accordance with board rules and policies and (ii) to direct all other persons assigned to the attendance center pursuant to a contract with a third party to provide services to the school system. The right to employ, discharge, and layoff shall be vested solely with the board, provided that decisions to discharge or suspend nonlicensed employees, including disciplinary layoffs, and the termination of licensed employees from employment pursuant to a layoff or reassignment policy are subject to review under the grievance resolution procedure adopted pursuant to subsection (c) of Section 10 of the Illinois Educational Labor Relations Act. The grievance resolution procedure adopted by the board shall provide for final and binding arbitration, and, notwithstanding any other provision of law to the contrary, the arbitrator's decision may include all make-whole relief, including without limitation reinstatement. The principal shall fill positions by appointment as provided in this Section and may make recommendations to the board regarding the employment, discharge, or layoff of any individual. The authority of the principal shall include the authority to direct the hours during which the attendance center shall be open and available for use provided the use complies with board rules and policies, to determine when and what operations shall be conducted within those hours, and to schedule staff within those hours. Under the direction of, and subject to the authority of the principal, the Engineer In Charge shall be accountable for the safe, economical operation of the plant and grounds and shall also be responsible for orientation, training, and supervising the work of Engineers, Trainees, school maintenance assistants, custodial workers and other plant operation employees under his or her direction.

There shall be established by the board a system of semi-annual evaluations conducted by the principal as to performance of the engineer in charge. Nothing in this Section shall prevent the principal from conducting additional evaluations. An overall numerical rating shall be given by the principal based on the evaluation conducted by the principal. An unsatisfactory numerical rating shall result in disciplinary action, which may include, without limitation and in the judgment of the principal, loss of promotion or bidding procedure, reprimand, suspension with or without pay, or recommended dismissal. The board shall establish procedures for conducting the evaluation and reporting the results to the engineer in charge.

Under the direction of, and subject to the authority of, the principal, the Food Service Manager is responsible at all times for the proper operation and maintenance of the lunch room to which he is assigned and shall also be responsible for the orientation, training, and supervising the work of cooks, bakers, porters, and lunchroom attendants under his or her direction.

There shall be established by the Board a system of semi-annual evaluations conducted by the principal as to the performance of the food service manager. Nothing in this Section shall prevent the principal from conducting additional evaluations. An overall numerical rating shall be given by the principal based on the evaluation conducted by the principal. An unsatisfactory numerical rating shall result in

disciplinary action which may include, without limitation and in the judgment of the principal, loss of promotion or bidding procedure, reprimand, suspension with or without pay, or recommended dismissal. The board shall establish rules for conducting the evaluation and reporting the results to the food service manager.

Nothing in this Section shall be interpreted to require the employment or assignment of an Engineer-In-Charge or a Food Service Manager for each attendance center.

Principals shall be employed to supervise the educational operation of each attendance center. If a principal is absent due to extended illness or leave of absence, an assistant principal may be assigned as acting principal for a period not to exceed 100 school days. Each principal shall assume administrative responsibility and instructional leadership, in accordance with reasonable rules and regulations of the board, for the planning, operation and evaluation of the educational program of the attendance center to which he is assigned. The principal shall submit recommendations to the general superintendent concerning the appointment, dismissal, retention, promotion, and assignment of all personnel assigned to the attendance center; provided, that from and after September 1, 1989: (i) if any vacancy occurs in a position at the attendance center or if an additional or new position is created at the attendance center, that position shall be filled by appointment made by the principal in accordance with procedures established and provided by the Board whenever the majority of the duties included in that position are to be performed at the attendance center which is under the principal's supervision, and each such appointment so made by the principal shall be made and based upon merit and ability to perform in that position without regard to seniority or length of service, provided, that such appointments shall be subject to the Board's desegregation obligations, including but not limited to the Consent Decree and Desegregation Plan in U.S. v. Chicago Board of Education; (ii) the principal shall submit recommendations based upon merit and ability to perform in the particular position, without regard to seniority or length of service, to the general superintendent concerning the appointment of any teacher, teacher aide, counselor, clerk, hall guard, security guard and any other personnel which is to be made by the general superintendent whenever less than a majority of the duties of that teacher, teacher aide, counselor, clerk, hall guard, and security guard and any other personnel are to be performed at the attendance center which is under the principal's supervision; and (iii) subject to law and the applicable collective bargaining agreements, the authority and responsibilities of a principal with respect to the evaluation of all teachers and other personnel assigned to an attendance center shall commence immediately upon his or her appointment as principal of the attendance center, without regard to the length of time that he or she has been the principal of that attendance center.

Notwithstanding the existence of any other law of this State, nothing in this Act shall prevent the board from entering into a contract with a third party for services currently performed by any employee or bargaining unit member.

Notwithstanding any other provision of this Article, each principal may approve contracts, binding on the board, in the amount of no more than \$10,000, if the contract is endorsed by the Local School Council.

Unless otherwise prohibited by law or by rule of the board, the principal shall provide to local school council members copies of all internal audits and any other pertinent information generated by any audits or reviews of the programs and operation of the attendance center.

Each principal shall hold a valid Professional Educator License issued in accordance with Article 21B and endorsed as required by that Article for the position of principal. The board may establish or impose clear, specific, explicit, and objective academic, educational, examination, and experience requirements and criteria that are in addition to those established and required by Article 21B for issuance of a valid license endorsed for the position of principal as a condition of the nomination, selection, appointment, employment, or continued employment of a person as principal of any attendance center, or as a condition of the renewal of any principal's performance contract. If the additional requirements and criteria result or may result in the exclusion of an otherwise qualified and licensed candidate from being eligible for selection to serve as a principal of an attendance center, then the board shall maintain a public database that includes the names of all the candidates who are eligible to be selected as a principal and who do not choose to not have their name included in the database. The board shall give notice of no less than 30 days to all otherwise qualified and licensed candidates and shall make updates to the database within no more than 10 days after the end of the quarter for which notice is given.

The board must establish standards and procedures to ensure that no candidate is deemed ineligible to be selected as a principal for reasons that are not directly related to the candidate's anticipated performance as a principal. The standards and procedures established by the board must do all of the following:

(1) Set forth all of the specific criteria used by the board to make decisions concerning the eligibility of candidates.

(2) Provide each candidate with a written, competency-aligned score report and evidence-based rationale related to the scoring criteria for each competency area.

(3) Provide remediation goals and other supportive services to assist a candidate in correcting any deficiencies identified by the board in the board's rationale.

(4) Include provisions to ensure that no person is discriminated against on the basis of conscious or implicit biases associated with race, color, national origin, or a disability that is unrelated to the person's ability to perform the duties of a principal.

The board, in cooperation with the organization that represents the district's principals and assistant principals, must establish a grievance and hearing procedure for those candidates the general superintendent or the general superintendent's designee has deemed ineligible to serve as principal of an attendance center or whose eligibility has been slated for revocation. The evaluator must be a State Board of Education-trained principal evaluator or must receive such training before rendering a decision. The hearing officer must receive sufficient training in principal evaluation processes and criteria to render an informed decision.

Within 10 days after the general superintendent or the general superintendent's designee determines that a candidate is ineligible or makes a decision to revoke the eligibility of an administrator, the general superintendent or the general superintendent's designee must notify the candidate or administrator, in writing, of the specific reasons for the general superintendent's or the general superintendent's designee's determination of the candidate's or administrator's ineligibility. Within 30 days after receiving this notification, the candidate or administrator may request that the general superintendent or the general superintendent's designee initiate a review of the decision through the grievance and hearing process established pursuant to this Section.

In the case of a principal who is deemed ineligible based on a performance evaluation, the evaluator conducting the review must consider as evidence of the principal's performance any local school council evaluation that covers the same evaluation period. If a decision to revoke eligibility is grieved, the administrator shall remain on the eligibility list until the administrator receives a decision in the grievance. However, prior to any hiring decision, the board may communicate to any local school council that the administrator has a grievance pending while the grievance is pending. The grievance decision shall be binding on the principal and the board.

If performance evaluations are included in the criteria used by the board in determining that a principal is no longer eligible to seek a principal position at an attendance center, the board's criteria must use the standard of either an unsatisfactory summative evaluation or 2 or more basic or lower summative performance evaluations within a period of 7 school years, except as provided below in the case of a principal who is in his or her first principal position. A principal with summative performance evaluations of basic in the principal's first 2 school years in that role shall not impact a principal's eligibility status if the principal earns an increased numerical rating in at least one competency domain while maintaining ratings on all other competency domains in the school year immediately following the basic rating. A principal who is deemed ineligible based on a performance evaluation may request that the general superintendent review that determination under the grievance procedure, in which case the general superintendent's designee must be a State Board of Education-trained principal evaluator, and, in conducting that review, the general superintendent's designee must consider any local school council evaluation that covers the same evaluation period. If an individual evaluator rates an individual principal as unsatisfactory for the first time, the board may not determine that a principal is no longer eligible to serve as a principal based on performance evaluations from that evaluator if, during the same school term of service, the local school council's evaluation of the principal's performance was distinguished. If a principal has been deemed ineligible based on a performance evaluation, the principal's status is restored to eligible when the principal receives a proficient or higher summative performance evaluation rating, provided the principal meets all other criteria for eligibility.

The board shall specify in its formal job description for principals, and from and after July 1, 1990 shall specify in the 4 year performance contracts for use with respect to all principals, that his or her primary responsibility is in the improvement of instruction. A majority of the time spent by a principal shall be spent on curriculum and staff development through both formal and informal activities, establishing clear lines of communication regarding school goals, accomplishments, practices and policies with parents and teachers. The principal, with the assistance of the local school council, shall develop a school improvement plan as provided in Section 34-2.4 and, upon approval of the plan by the local school council, shall be responsible

for directing implementation of the plan. The principal, with the assistance of the professional personnel leadership committee, shall develop the specific methods and contents of the school's curriculum within the board's system-wide curriculum standards and objectives and the requirements of the school improvement plan. The board shall ensure that all principals are evaluated on their instructional leadership ability and their ability to maintain a positive education and learning climate. It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

Nothing in this Section shall prohibit the board and the exclusive representative of the district's teachers from entering into an agreement under Section 34-85c of this Code to establish alternative procedures for teacher evaluation, remediation, and removal for cause after remediation, including an alternative system for peer evaluation and recommendations, for teachers assigned to schools identified in that agreement.

On or before October 1, 1989, the Board of Education, in consultation with any professional organization representing principals in the district, shall promulgate rules and implement a lottery for the purpose of determining whether a principal's existing performance contract (including the performance contract applicable to any principal's position in which a vacancy then exists) expires on June 30, 1990 or on June 30, 1991, and whether the ensuing 4 year performance contract begins on July 1, 1990 or July 1, 1991. The Board of Education shall establish and conduct the lottery in such manner that of all the performance contracts of principals (including the performance contracts applicable to all principal positions in which a vacancy then exists), 50% of such contracts shall expire on June 30, 1990, and 50% shall expire on June 30, 1991. All persons serving as principal on May 1, 1989, and all persons appointed as principal after May 1, 1989 and prior to July 1, 1990 or July 1, 1991, in a manner other than as provided by Section 34-2.3, shall be deemed by operation of law to be serving under a performance contract which expires on June 30, 1990; and unless such performance contract of any such principal is renewed (or such person is again appointed to serve as principal) in the manner provided by Section 34-2.3, the employment of such person as principal shall terminate on June 30, 1990 or June 30, 1991.

Commencing on July 1, 1990, or on July 1, 1991, and thereafter, the principal of each attendance center shall be the person selected in the manner provided by Section 34-2.3 to serve as principal of that attendance center under a 4 year performance contract. All performance contracts of principals expiring after July 1, 1990, or July 1, 1991, shall commence on the date specified in the contract, and the renewal of their performance contracts and the appointment of principals when their performance contracts are not renewed shall be governed by Sections 34-2.2 and 34-2.3. Whenever a vacancy in the office of a principal occurs for any reason, the vacancy shall be filled by the selection of a new principal to serve under a 4 year performance contract in the manner provided by Section 34-2.3.

The board of education shall develop and prepare, in consultation with the organization representing principals, a performance contract for use at all attendance centers, and shall furnish the same to each local school council. The term of the performance contract shall be 4 years, unless the principal is retained by the decision of a hearing officer pursuant to subdivision 1.5 of Section 34-2.3, in which case the contract shall be extended for 2 years. The performance contract of each principal shall consist of the uniform performance contract, as developed or from time to time modified by the board, and such additional criteria as are established by a local school council pursuant to Section 34-2.3 for the performance contract of its principal.

During the term of his or her performance contract, a principal may be removed only as provided for in the performance contract except for cause. He or she shall also be obliged to follow the rules of the board of education concerning conduct and efficiency.

In the event the performance contract of a principal is not renewed or a principal is not reappointed as principal under a new performance contract, or in the event a principal is appointed to any position of superintendent or higher position, or voluntarily resigns his position of principal, his or her employment as a principal shall terminate and such former principal shall not be reinstated to the position from which he or she was promoted to principal, except that he or she, if otherwise qualified and licensed in accordance with Article 21B, shall be placed by the board on appropriate eligibility lists which it prepares for use in the filling of vacant or additional or newly created positions for teachers. The principal's total years of service to the board as both a teacher and a principal, or in other professional capacities, shall be used in calculating years of experience for purposes of being selected as a teacher into new, additional or vacant positions.

In the event the performance contract of a principal is not renewed or a principal is not reappointed as principal under a new performance contract, such principal shall be eligible to continue to receive his or her previously provided level of health insurance benefits for a period of 90 days following the non-renewal of the contract at no expense to the principal, provided that such principal has not retired. (Source: P.A. 102-894, eff. 5-20-22.)

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

The motion prevailed. And the amendment was adopted and ordered printed. There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Pacione-Zayas, **House Bill No. 5285** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Anderson	Fine	Loughran Cappel	Stadelman
Aquino	Fowler	Martwick	Stoller
Bailey	Gillespie	Mattson	Tharp
Belt	Glowiak Hilton	McClure	Tracy
Bennett	Hall	McConchie	Turner, D.
Bryant	Harris	Morrison	Turner, S.
Castro	Hastings	Murphy	Van Pelt
Cervantes	Holmes	Pacione-Zayas	Villa
Collins	Hunter	Pappas	Villanueva
Cunningham	Johnson	Peters	Villivalam
Curran	Jones, E.	Rezin	Wilcox
DeWitte	Joyce	Rose	Mr. President
Ellman	Koehler	Simmons	
Feigenholtz	Lightford	Sims	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Peters, **House Bill No. 5107** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 45; NAYS 7.

The following voted in the affirmative:

Anderson	Fowler	Lightford	Sims
Aquino	Gillespie	Loughran Cappel	Stadelman
Belt	Glowiak Hilton	Martwick	Tharp

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Bennett	Hall	Mattson	Turner, D.
Castro	Harris	McClure	Van Pelt
Cervantes	Hastings	Morrison	Villa
Collins	Holmes	Murphy	Villanueva
Cunningham	Hunter	Pacione-Zayas	Villivalam
Curran	Johnson	Pappas	Mr. President
DeWitte	Jones, E.	Peters	
Ellman	Joyce	Rezin	
Fine	Koehler	Simmons	

The following voted in the negative:

Bailey	Rose	Stoller	Wilcox
McConchie	Stewart	Turner, S.	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

Senator Hunter asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator McClure asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 9:11 o'clock a.m., the Chair announced that the Senate stands at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 10:43 o'clock a.m., the Senate resumed consideration of business. Senator Koehler, presiding.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 1379

Offered by Senator McClure and all Senators: Mourns the death of June Dallas Peden-Stade of Auburn.

SENATE RESOLUTION NO. 1380

Offered by Senator McClure and all Senators: Mourns the death of Thurman Edward Stewart of Woodson.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Lightford, Chair of the Committee on Assignments, during its January 6, 2023 meeting, reported that the following Legislative Measures have been approved for consideration:

Floor Amendment No. 2 to House Bill 240 Floor Amendment No. 1 to House Bill 1688 Floor Amendment No. 2 to House Bill 4412

Floor Amendment No. 3 to House Bill 4412

The foregoing floor amendments were placed on the Secretary's Desk.

HOUSE BILL RECALLED

On motion of Senator Gillespie, House Bill No. 240 was recalled from the order of third reading to the order of second reading.

Senator Gillespie offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 240

AMENDMENT NO. 1. Amend House Bill 240 by replacing everything after the enacting clause with the following:

"Section 1. The Illinois Administrative Procedure Act is amended by adding Section 5-45.35 as follows:

(5 ILCS 100/5-45.35 new)

Sec. 5-45.35. Emergency rulemaking; rural emergency hospitals. To provide for the expeditious and timely implementation of this amendatory Act of the 102nd General Assembly, emergency rules implementing the inclusion of rural emergency hospitals in the definition of "hospital" in Section 3 of the Hospital Licensing Act may be adopted in accordance with Section 5-45 by the Department of Public Health. The adoption of emergency rules authorized by Section 5-45 and this Section is deemed to be necessary for the public interest, safety, and welfare.

This Section is repealed one year after the effective date of this amendatory Act of the 102nd General Assembly.

Section 5. The Illinois Health Facilities Planning Act is amended by adding Section 8.9a as follows: (20 ILCS 3960/8.9a new)

Sec. 8.9a. Extension of project completion date. Any party that has previously received approval by the State Board to re-establish a previously discontinued general acute care hospital in accordance with Section 8.9 of this Act shall have the automatic right to extend the project completion date listed by the party in the party's certificate of exemption application by providing notice to the State Board of the new project completion date.

Section 10. The Nursing Home Care Act is amended by changing Section 3-202.05 as follows: (210 ILCS 45/3-202.05)

Sec. 3-202.05. Staffing ratios effective July 1, 2010 and thereafter.

(a) For the purpose of computing staff to resident ratios, direct care staff shall include:

- (1) registered nurses;
- (2) licensed practical nurses;
- (3) certified nurse assistants;
- (4) psychiatric services rehabilitation aides;
- (5) rehabilitation and therapy aides;
- (6) psychiatric services rehabilitation coordinators;
- (7) assistant directors of nursing;
- (8) 50% of the Director of Nurses' time; and
- (9) 30% of the Social Services Directors' time.

The Department shall, by rule, allow certain facilities subject to 77 Ill. Adm. Admin. Code 300.4000 and following (Subpart S) to utilize specialized clinical staff, as defined in rules, to count towards the staffing ratios.

Within 120 days of June 14, 2012 (the effective date of Public Act 97-689) this amendatory Act of the 97th General Assembly, the Department shall promulgate rules specific to the staffing requirements for facilities federally defined as Institutions for Mental Disease. These rules shall recognize the unique nature of individuals with chronic mental health conditions, shall include minimum requirements for specialized

clinical staff, including clinical social workers, psychiatrists, psychologists, and direct care staff set forth in paragraphs (4) through (6) and any other specialized staff which may be utilized and deemed necessary to count toward staffing ratios.

Within 120 days of June 14, 2012 (the effective date of Public Act 97-689) this amendatory Act of the 97th General Assembly, the Department shall promulgate rules specific to the staffing requirements for facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013. These rules shall recognize the unique nature of individuals with chronic mental health conditions, shall include minimum requirements for specialized clinical staff, including clinical social workers, psychiatrists, psychologists, and direct care staff set forth in paragraphs (4) through (6) and any other specialized staff which may be utilized and deemed necessary to count toward staffing ratios.

(b) (Blank).

(b-5) For purposes of the minimum staffing ratios in this Section, all residents shall be classified as requiring either skilled care or intermediate care.

As used in this subsection:

"Intermediate care" means basic nursing care and other restorative services under periodic medical direction.

"Skilled care" means skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision.

(c) Facilities shall notify the Department within 60 days after July 29, 2010 (the effective date of Public Act 96-1372) this amendatory Act of the 96th General Assembly, in a form and manner prescribed by the Department, of the staffing ratios in effect on July 29, 2010 (the effective date of Public Act 96-1372) this amendatory Act of the 96th General Assembly for both intermediate and skilled care and the number of residents receiving each level of care.

(d)(1) (Blank).

(2) (Blank).

(3) (Blank).

(4) (Blank).

(5) Effective January 1, 2014, the minimum staffing ratios shall be increased to 3.8 hours of nursing and personal care each day for a resident needing skilled care and 2.5 hours of nursing and personal care each day for a resident needing intermediate care.

(e) Ninety days after June 14, 2012 (the effective date of Public Act 97-689) this amendatory Act of the 97th General Assembly, a minimum of 25% of nursing and personal care time shall be provided by licensed nurses, with at least 10% of nursing and personal care time provided by registered nurses. These minimum requirements shall remain in effect until an acuity based registered nurse requirement is promulgated by rule concurrent with the adoption of the Resource Utilization Group classification-based payment methodology, as provided in Section 5-5.2 of the Illinois Public Aid Code. Registered nurses and licensed practical nurses employed by a facility in excess of these requirements. Notwithstanding this subsection, no staffing requirement in statute in effect on June 14, 2012 (the effective date of Public Act 97-689) this amendatory Act of the 97th General Assembly shall be reduced on account of this subsection.

(f) The Department shall submit proposed rules for adoption by January 1, 2020 establishing a system for determining compliance with minimum staffing set forth in this Section and the requirements of 77 Ill. Adm. Code 300.1230 adjusted for any waivers granted under Section 3-303.1. Compliance shall be determined quarterly by comparing the number of hours provided per resident per day using the Centers for Medicare and Medicaid Services' payroll-based journal and the facility's daily census, broken down by intermediate and skilled care as self-reported by the facility to the Department on a quarterly basis. The Department shall use the quarterly payroll-based journal and the self-reported census to calculate the number of hours provided per resident per day and compare this ratio to the minimum staffing standards required under this Section, as impacted by any waivers granted under Section 3-303.1. Discrepancies between job titles contained in this Section and the payroll-based journal shall be addressed by rule. The manner in which the Department requests payroll-based journal information to be submitted shall align with the federal Centers for Medicare and Medicaid Services' requirements that allow providers to submit the quarterly data in an aggregate manner.

(g) <u>Monetary penalties for non-compliance</u>. The Department shall submit proposed rules for adoption by January 1, 2020 establishing monetary penalties for facilities not in compliance with minimum staffing standards under this Section. Facilities shall be required to comply with the provisions of this subsection

beginning January 1, 2025. No monetary penalty may be issued for noncompliance prior to during the revised implementation date period, which shall be January 1, 2025 July 1, 2020 through December 31, $\frac{1}{2021}$. If a facility is found to be noncompliant prior to during the revised implementation date period, the Department shall provide a written notice identifying the staffing deficiencies and require the facility to provide a sufficiently detailed correction plan that describes proposed and completed actions the facility will take or has taken, including hiring actions, to address the facility's failure to meet the statutory minimum staffing levels. Monetary penalties shall be imposed beginning no later than July 1, 2025, based on data for the quarter beginning January 1, 2025 through March 31, 2025 January 1, 2022 and quarterly thereafter and shall be based on the latest quarter for which the Department has data. Monetary penalties shall be established based on a formula that calculates on a daily basis the cost of wages and benefits for the missing staffing hours. All notices of noncompliance shall include the computations used to determine noncompliance and establishing the variance between minimum staffing ratios and the Department's computations. The penalty for the first offense shall be 125% of the cost of wages and benefits for the missing staffing hours. The penalty shall increase to 150% of the cost of wages and benefits for the missing staffing hours for the second offense and 200% the cost of wages and benefits for the missing staffing hours for the third and all subsequent offenses. The penalty shall be imposed regardless of whether the facility has committed other violations of this Act during the same period that the staffing offense occurred. The penalty may not be waived, but the Department shall have the discretion to determine the gravity of the violation in situations where there is no more than a 10% deviation from the staffing requirements and make appropriate adjustments to the penalty. The Department is granted discretion to waive the penalty when unforeseen circumstances have occurred that resulted in call-offs of scheduled staff. This provision shall be applied no more than 6 times per quarter. Nothing in this Section diminishes a facility's right to appeal the imposition of a monetary penalty. No facility may appeal a notice of noncompliance issued during the revised implementation period.

(Source: P.A. 101-10, eff. 6-5-19; 102-16, eff. 6-17-21; revised 2-28-22.)

Section 15. The Specialized Mental Health Rehabilitation Act of 2013 is amended by changing Section 1-102 as follows:

(210 ILCS 49/1-102)

Sec. 1-102. Definitions. For the purposes of this Act, unless the context otherwise requires:

"Abuse" means any physical or mental injury or sexual assault inflicted on a consumer other than by accidental means in a facility.

"Accreditation" means any of the following:

(1) the Joint Commission;

(2) the Commission on Accreditation of Rehabilitation Facilities;

(3) the Healthcare Facilities Accreditation Program; or

(4) any other national standards of care as approved by the Department.

"APRN" means an Advanced Practice Registered Nurse, nationally certified as a mental health or psychiatric nurse practitioner and licensed under the Nurse Practice Act.

"Applicant" means any person making application for a license or a provisional license under this Act.

"Consumer" means a person, 18 years of age or older, admitted to a mental health rehabilitation facility for evaluation, observation, diagnosis, treatment, stabilization, recovery, and rehabilitation.

"Consumer" does not mean any of the following:

(i) an individual requiring a locked setting;

(ii) an individual requiring psychiatric hospitalization because of an acute psychiatric crisis;

(iii) an individual under 18 years of age;

(iv) an individual who is actively suicidal or violent toward others;

(v) an individual who has been found unfit to stand trial and is currently subject to a court order requiring placement in secure inpatient care in the custody of the Department of Human Services pursuant to Section 104-17 of the Code of Criminal Procedure of 1963;

(vi) an individual who has been found not guilty by reason of insanity and is currently subject to a court order requiring placement in secure inpatient care in the custody of the Department of Human Services pursuant to Section 5-2-4 of the Unified Code of Corrections based on committing a violent act, such as sexual assault, assault with a deadly weapon, arson, or murder;

(vii) an individual subject to temporary detention and examination under Section 3-607 of the Mental Health and Developmental Disabilities Code;

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(viii) an individual deemed clinically appropriate for inpatient admission in a State psychiatric hospital; and

(ix) an individual transferred by the Department of Corrections pursuant to Section 3-8-5 of the Unified Code of Corrections.

"Consumer record" means a record that organizes all information on the care, treatment, and rehabilitation services rendered to a consumer in a specialized mental health rehabilitation facility.

"Controlled drugs" means those drugs covered under the federal Comprehensive Drug Abuse Prevention Control Act of 1970, as amended, or the Illinois Controlled Substances Act.

"Department" means the Department of Public Health.

"Discharge" means the full release of any consumer from a facility.

"Drug administration" means the act in which a single dose of a prescribed drug or biological is given to a consumer. The complete act of administration entails removing an individual dose from a container, verifying the dose with the prescriber's orders, giving the individual dose to the consumer, and promptly recording the time and dose given.

"Drug dispensing" means the act entailing the following of a prescription order for a drug or biological and proper selection, measuring, packaging, labeling, and issuance of the drug or biological to a consumer.

"Emergency" means a situation, physical condition, or one or more practices, methods, or operations which present imminent danger of death or serious physical or mental harm to consumers of a facility.

"Facility" means a specialized mental health rehabilitation facility that provides at least one of the following services: (1) triage center; (2) crisis stabilization; (3) recovery and rehabilitation supports; or (4) transitional living units for 3 or more persons. The facility shall provide a 24-hour program that provides intensive support and recovery services designed to assist persons, 18 years or older, with mental disorders to develop the skills to become self-sufficient and capable of increasing levels of independent functioning. It includes facilities that meet the following criteria:

(1) 100% of the consumer population of the facility has a diagnosis of serious mental illness;

(2) no more than 15% of the consumer population of the facility is 65 years of age or older;

(3) none of the consumers are non-ambulatory;

(4) none of the consumers have a primary diagnosis of moderate, severe, or profound intellectual disability; and

(5) the facility must have been licensed under the Specialized Mental Health Rehabilitation Act or the Nursing Home Care Act immediately preceding July 22, 2013 (the effective date of this Act) and qualifies as an institute for mental disease under the federal definition of the term. "Facility" does not include the following:

(1) a home, institution, or place operated by the federal government or agency thereof, or by the State of Illinois:

(2) a hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor which is required to be licensed under the Hospital Licensing Act:

(3) a facility for child care as defined in the Child Care Act of 1969;

(4) a community living facility as defined in the Community Living Facilities Licensing Act;

(5) a nursing home or sanitarium sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination; however, such nursing home or sanitarium sanatorium shall comply with all local laws and rules relating to sanitation and safety;

(6) a facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

(7) a supportive residence licensed under the Supportive Residences Licensing Act;

(8) a supportive living facility in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code, except only for purposes of the employment of persons in accordance with Section 3-206.01 of the Nursing Home Care Act:

(9) an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act, except only for purposes of the employment of persons in accordance with Section 3-206.01 of the Nursing Home Care Act;

(10) an Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act;

(11) a home, institution, or other place operated by or under the authority of the Illinois Department of Veterans' Affairs;

(12) a facility licensed under the ID/DD Community Care Act;

(13) a facility licensed under the Nursing Home Care Act after July 22, 2013 (the effective date of this Act); or

(14) a facility licensed under the MC/DD Act.

"Executive director" means a person who is charged with the general administration and supervision of a facility licensed under this Act and who is a licensed nursing home administrator, licensed practitioner of the healing arts, or qualified mental health professional.

"Guardian" means a person appointed as a guardian of the person or guardian of the estate, or both, of a consumer under the Probate Act of 1975.

"Identified offender" means a person who meets any of the following criteria:

(1) Has been convicted of, found guilty of, adjudicated delinquent for, found not guilty by reason of insanity for, or found unfit to stand trial for, any felony offense listed in Section 25 of the Health Care Worker Background Check Act, except for the following:

(i) a felony offense described in Section 10-5 of the Nurse Practice Act;

(ii) a felony offense described in Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act;

(iii) a felony offense described in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act;

(iv) a felony offense described in Section 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act; and

(v) a felony offense described in the Methamphetamine Control and Community Protection Act.

(2) Has been convicted of, adjudicated delinquent for, found not guilty by reason of insanity for, or found unfit to stand trial for, any sex offense as defined in subsection (c) of Section 10 of the Sex Offender Management Board Act.

"Transitional living units" are residential units within a facility that have the purpose of assisting the consumer in developing and reinforcing the necessary skills to live independently outside of the facility. The duration of stay in such a setting shall not exceed 120 days for each consumer. Nothing in this definition shall be construed to be a prerequisite for transitioning out of a facility.

"Licensee" means the person, persons, firm, partnership, association, organization, company, corporation, or business trust to which a license has been issued.

"Misappropriation of a consumer's property" means the deliberate misplacement, exploitation, or wrongful temporary or permanent use of a consumer's belongings or money without the consent of a consumer or his or her guardian.

"Neglect" means a facility's failure to provide, or willful withholding of, adequate medical care, mental health treatment, psychiatric rehabilitation, personal care, or assistance that is necessary to avoid physical harm and mental anguish of a consumer.

"Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs, maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his or her person, whether or not a guardian has been appointed for such individual. "Personal care" shall not be construed to confine or otherwise constrain a facility's pursuit to develop the skills and abilities of a consumer to become self-sufficient and capable of increasing levels of independent functioning.

"Recovery and rehabilitation supports" means a program that facilitates a consumer's longer-term symptom management and stabilization while preparing the consumer for transitional living units by improving living skills and community socialization. The duration of stay in such a setting shall be established by the Department by rule.

"Restraint" means:

(i) a physical restraint that is any manual method or physical or mechanical device, material, or equipment attached or adjacent to a consumer's body that the consumer cannot remove easily and restricts freedom of movement or normal access to one's body; devices used for positioning, including, but not limited to, bed rails, gait belts, and cushions, shall not be considered to be restraints for purposes of this Section; or (ii) a chemical restraint that is any drug used for discipline or convenience and not required to treat medical symptoms; the Department shall, by rule, designate certain devices as restraints, including at least all those devices that have been determined to be restraints by the United States Department of Health and Human Services in interpretive guidelines issued for the purposes of administering Titles XVIII and XIX of the federal Social Security Act. For the purposes of this Act, restraint shall be administered only after utilizing a coercive free environment and culture.

"Self-administration of medication" means consumers shall be responsible for the control, management, and use of their own medication.

"Crisis stabilization" means a secure and separate unit that provides short-term behavioral, emotional, or psychiatric crisis stabilization as an alternative to hospitalization or re-hospitalization for consumers from residential or community placement. The duration of stay in such a setting shall not exceed 21 days for each consumer.

"Therapeutic separation" means the removal of a consumer from the milieu to a room or area which is designed to aid in the emotional or psychiatric stabilization of that consumer.

"Triage center" means a non-residential 23-hour center that serves as an alternative to emergency room care, hospitalization, or re-hospitalization for consumers in need of short-term crisis stabilization. Consumers may access a triage center from a number of referral sources, including family, emergency rooms, hospitals, community behavioral health providers, federally qualified health providers, or schools, including colleges or universities. A triage center may be located in a building separate from the licensed location of a facility, but shall not be more than 1,000 feet from the licensed location of the facility and must meet all of the facility standards applicable to the licensed location. If the triage center does operate in a separate building, safety personnel shall be provided, on site, 24 hours per day and the triage center shall meet all other staffing requirements without counting any staff employed in the main facility building. (Source: P.A. 102-1053, eff. 6-10-22; revised 8-24-22.)

Section 20. The Hospital Licensing Act is amended by changing Section 3 as follows:

(210 ILCS 85/3)

Sec. 3. As used in this Act:

(A) "Hospital" means any institution, place, building, buildings on a campus, or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of 2 or more unrelated persons admitted for overnight stay or longer in order to obtain medical, including obstetric, psychiatric and nursing, care of illness, disease, injury, infirmity, or deformity.

The term "hospital", without regard to length of stay, shall also include:

(a) any facility which is devoted primarily to providing psychiatric and related services and programs for the diagnosis and treatment or care of 2 or more unrelated persons suffering from emotional or nervous diseases;

(b) all places where pregnant females are received, cared for, or treated during delivery irrespective of the number of patients received; and -

(c) on and after January 1, 2023, a rural emergency hospital, as that term is defined under subsection (kkk)(2) of Section 1861 of the federal Social Security Act; to provide for the expeditious and timely implementation of this amendatory Act of the 102nd General Assembly, emergency rules to implement the changes made to the definition of "hospital" by this amendatory Act of the 102nd General Assembly may be adopted by the Department subject to the provisions of Section 5-45 of the Illinois Administrative Procedure Act.

The term "hospital" includes general and specialized hospitals, tuberculosis sanitaria, mental or psychiatric hospitals and sanitaria, and includes maternity homes, lying-in homes, and homes for unwed mothers in which care is given during delivery.

The term "hospital" does not include:

(1) any person or institution required to be licensed pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act;

(2) hospitalization or care facilities maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitalization or care facilities under its management and control;

(3) hospitalization or care facilities maintained by the federal government or agencies thereof;

(4) hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation;

(5) any person or facility required to be licensed pursuant to the Substance Use Disorder Act;

(6) any facility operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination;

(7) an Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or

(8) any veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under the Veterinary Medicine and Surgery Practice Act of 2004 or maintained by a State-supported or publicly funded university or college.

(B) "Person" means the State, and any political subdivision or municipal corporation, individual, firm, partnership, corporation, company, association, or joint stock association, or the legal successor thereof.

(C) "Department" means the Department of Public Health of the State of Illinois.

(D) "Director" means the Director of Public Health of the State of Illinois.

(E) "Perinatal" means the period of time between the conception of an infant and the end of the first month after birth.

(F) "Federally designated organ procurement agency" means the organ procurement agency designated by the Secretary of the U.S. Department of Health and Human Services for the service area in which a hospital is located; except that in the case of a hospital located in a county adjacent to Wisconsin which currently contracts with an organ procurement agency located in Wisconsin that is not the organ procurement agency designated by the U.S. Secretary of Health and Human Services for the service area in which the hospital is located, if the hospital applies for a waiver pursuant to 42 U.S.C. USC 1320b-8(a), it may designate an organ procurement agency located in Wisconsin to be thereafter deemed its federally designated organ procurement agency for the purposes of this Act.

(G) "Tissue bank" means any facility or program operating in Illinois that is certified by the American Association of Tissue Banks or the Eye Bank Association of America and is involved in procuring, furnishing, donating, or distributing corneas, bones, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them into the human body. "Tissue bank" does not include a licensed blood bank. For the purposes of this Act, "tissue" does not include organs.

(H) "Campus", as this <u>term</u> terms applies to operations, has the same meaning as the term "campus" as set forth in federal Medicare regulations, 42 CFR 413.65.

(Source: P.A. 99-180, eff. 7-29-15; 100-759, eff. 1-1-19.)

Section 25. The Behavior Analyst Licensing Act is amended by changing Sections 30, 35, and 150 as follows:

(225 ILCS 6/30)

(Section scheduled to be repealed on January 1, 2028)

Sec. 30. Qualifications for behavior analyst license.

(a) A person qualifies to be licensed as a behavior analyst if that person:

(1) has applied in writing or electronically on forms prescribed by the Department;

(2) is a graduate of a graduate level program in the field of behavior analysis or a related field with an equivalent course of study in behavior analysis approved by the Department from a regionally accredited university approved by the Department;

(3) has completed at least 500 hours of supervision of behavior analysis, as defined by rule;

(4) has qualified for and passed the examination for the practice of behavior analysis as authorized by the Department; and

(5) has paid the required fees.

(b) The Department may issue a license to a certified behavior analyst seeking licensure as a licensed behavior analyst who (i) does not have the supervised experience as described in paragraph (3) of subsection (a), (ii) applies for licensure before July 1, 2028, and (iii) has completed all of the following:

(1) has applied in writing or electronically on forms prescribed by the Department;

(2) is a graduate of a graduate level program in the field of behavior analysis from a regionally accredited university approved by the Department;

(3) submits evidence of certification by an appropriate national certifying body as determined by rule of the Department;

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(4) has passed the examination for the practice of behavior analysis as authorized by the Department; and

(5) has paid the required fees.

(c) An applicant has 3 years after the date of application to complete the application process. If the process has not been completed in 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(d) Each applicant for licensure as a an behavior analyst shall have his or her fingerprints submitted to the Illinois State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Illinois State Police. These fingerprints shall be transmitted through a live scan fingerprint vendor licensed by the Department. These fingerprints shall be checked against the Illinois State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed, including, but not limited to, civil, criminal, and latent fingerprint databases. The Illinois State Police shall charge a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Illinois State Police shall furnish, pursuant to positive identification, records of Illinois convictions as prescribed under the Illinois Uniform Conviction Information Act and shall forward the national criminal history record information to the Department.

(Source: P.A. 102-953, eff. 5-27-22; revised 8-19-22.)

(225 ILCS 6/35)

(Section scheduled to be repealed on January 1, 2028)

Sec. 35. Qualifications for assistant behavior analyst license.

(a) A person qualifies to be licensed as an assistant behavior analyst if that person:

(1) has applied in writing or electronically on forms prescribed by the Department;

(2) is a graduate of a bachelor's level program in the field of behavior analysis or a related field with an equivalent course of study in behavior analysis approved by the Department from a regionally accredited university approved by the Department;

(3) has met the supervised work experience;

(4) has qualified for and passed the examination for the practice of behavior analysis as a licensed assistant behavior analyst as authorized by the Department; and

(5) has paid the required fees.

(b) The Department may issue a license to a certified assistant behavior analyst seeking licensure as a licensed assistant behavior analyst who (i) does not have the supervised experience as described in paragraph (3) of subsection (a), (ii) applies for licensure before July 1, 2028, and (iii) has completed all of the following:

(1) has applied in writing or electronically on forms prescribed by the Department;

(2) is a graduate of a bachelor's bachelors level program in the field of behavior analysis;

(3) submits evidence of certification by an appropriate national certifying body as determined by rule of the Department;

(4) has passed the examination for the practice of behavior analysis as authorized by the Department; and

(5) has paid the required fees.

(c) An applicant has 3 years after the date of application to complete the application process. If the process has not been completed in 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(d) Each applicant for licensure as an assistant behavior analyst shall have his or her fingerprints submitted to the Illinois State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Illinois State Police. These fingerprints shall be transmitted through a live scan fingerprint vendor licensed by the Department. These fingerprints shall be checked against the Illinois State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed, including, but not limited to, civil, criminal, and latent fingerprint databases. The Illinois State Police shall charge a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Illinois State Police shall furnish, pursuant to positive identification, records of Illinois convictions as prescribed under the Illinois Uniform Conviction Information Act and shall forward the national criminal history record information to the Department.

(Source: P.A. 102-953, eff. 5-27-22; revised 8-19-22.)

(225 ILCS 6/150)

(Section scheduled to be repealed on January 1, 2028)

Sec. 150. License restrictions and limitations. Notwithstanding the exclusion in paragraph (2) of subsection (c) of Section 20 that permits an individual to implement a behavior analytic treatment plan under the extended authority, direction, and supervision of a licensed behavior analyst or licensed assistant behavior analyst, no No business organization shall provide, attempt to provide, or offer to provide behavior analysis services unless every member, partner, shareholder, director, officer, holder of any other ownership interest, agent, and employee who renders applied behavior analysis services holds a currently valid license issued under this Act. No business shall be created that (i) has a stated purpose that includes behavior analysis, or (ii) practices or holds itself out as available to practice behavior analysis therapy, unless it is organized under the Professional Service Corporation Act or Professional Limited Liability Company Act. Nothing in this Act shall preclude individuals licensed under this Act from practice do practice medicine in all its branches under the Medical Practice Act of 1987 or for any legal entity as provided under subsection (c) of Section 22.2 of the Medical Practice Act of 1987. (Source: P.A. 102-953, eff. 5-27-22.)

Section 30. The Podiatric Medical Practice Act of 1987 is amended by adding Section 18.1 as follows:

(225 ILCS 100/18.1 new)

Sec. 18.1. Fee waivers. Notwithstanding any provision of law to the contrary, during State Fiscal Year 2023, the Department shall allow individuals a one-time waiver of fees imposed under Section 18 of this Act. No individual may benefit from such a waiver more than once. If an individual has already paid a fee required under Section 18 for Fiscal Year 2023, then the Department shall apply the money paid for that fee as a credit to the next required fee.

Section 35. The Illinois Public Aid Code is amended by changing Sections 5-5.2, 5-5.7b, and 5B-2 follows:

(305 ILCS 5/5-5.2) (from Ch. 23, par. 5-5.2)

Sec. 5-5.2. Payment.

(a) All nursing facilities that are grouped pursuant to Section 5-5.1 of this Act shall receive the same rate of payment for similar services.

(b) It shall be a matter of State policy that the Illinois Department shall utilize a uniform billing cycle throughout the State for the long-term care providers.

(c) (Blank).

(c-1) Notwithstanding any other provisions of this Code, the methodologies for reimbursement of nursing services as provided under this Article shall no longer be applicable for bills payable for nursing services rendered on or after a new reimbursement system based on the Patient Driven Payment Model (PDPM) has been fully operationalized, which shall take effect for services provided on or after the implementation of the PDPM reimbursement system begins. For the purposes of this amendatory Act of the 102nd General Assembly, the implementation date of the PDPM reimbursement system and all related provisions shall be July 1, 2022 if the following conditions are met: (i) the Centers for Medicare and Medicaid Services has approved corresponding changes in the reimbursement system and bed assessment; and (ii) the Department has filed rules to implement these changes no later than June 1, 2022. Failure of the Department to file rules to implement the changes provided in this amendatory Act of the 102nd General Assembly no later than June 1, 2022 shall result in the implementation date being delayed to October 1, 2022.

(d) The new nursing services reimbursement methodology utilizing the Patient Driven Payment Model, which shall be referred to as the PDPM reimbursement system, taking effect July 1, 2022, upon federal approval by the Centers for Medicare and Medicaid Services, shall be based on the following:

(1) The methodology shall be resident-centered, facility-specific, cost-based, and based on guidance from the Centers for Medicare and Medicaid Services.

(2) Costs shall be annually rebased and case mix index quarterly updated. The nursing services methodology will be assigned to the Medicaid enrolled residents on record as of 30 days prior to the beginning of the rate period in the Department's Medicaid Management Information System (MMIS) as present on the last day of the second quarter preceding the rate period based upon the Assessment Reference Date of the Minimum Data Set (MDS).

(3) Regional wage adjustors based on the Health Service Areas (HSA) groupings and adjusters in effect on April 30, 2012 shall be included, except no adjuster shall be lower than 1.06.

(4) PDPM nursing case mix indices in effect on March 1, 2022 shall be assigned to each resident class at no less than 0.7858 of the Centers for Medicare and Medicaid Services PDPM unadjusted case mix values, in effect on March 1, 2022, utilizing an index maximization approach.

(5) The pool of funds available for distribution by case mix and the base facility rate shall be determined using the formula contained in subsection (d-1).

(6) The Department shall establish a variable per diem staffing add-on in accordance with the most recent available federal staffing report, currently the Payroll Based Journal, for the same period of time, and if applicable adjusted for acuity using the same quarter's MDS. The Department shall rely on Payroll Based Journals provided to the Department of Public Health to make a determination of non-submission. If the Department is notified by a facility of missing or inaccurate Payroll Based Journal data or an incorrect calculation of staffing, the Department must make a correction as soon as the error is verified for the applicable quarter.

Facilities with at least 70% of the staffing indicated by the STRIVE study shall be paid a per diem add-on of \$9, increasing by equivalent steps for each whole percentage point until the facilities reach a per diem of \$14.88. Facilities with at least 80% of the staffing indicated by the STRIVE study shall be paid a per diem add-on of \$14.88, increasing by equivalent steps for each whole percentage point until the facilities reach a per diem add-on of \$23.80. Facilities with at least 92% of the staffing indicated by the STRIVE study shall be paid a per diem add-on of \$23.80, increasing by equivalent steps for each whole percentage point until the facilities reach a per diem add-on of \$29.75. Facilities with at least 100% of the staffing indicated by the STRIVE study shall be paid a per diem add-on of \$29.75, increasing by equivalent steps for each whole percentage point until the facilities reach a per diem add-on of \$35.70. Facilities with at least 110% of the staffing indicated by the STRIVE study shall be paid a per diem add-on of \$35.70, increasing by equivalent steps for each whole percentage point until the facilities reach a per diem add-on of \$38.68. Facilities with at least 125% or higher of the staffing indicated by the STRIVE study shall be paid a per diem add-on of \$38.68. Beginning April 1, 2023, no nursing facility's variable staffing per diem add-on shall be reduced by more than 5% in 2 consecutive quarters. For the quarters beginning July 1, 2022 and October 1, 2022, no facility's variable per diem staffing add-on shall be calculated at a rate lower than 85% of the staffing indicated by the STRIVE study. No facility below 70% of the staffing indicated by the STRIVE study shall receive a variable per diem staffing add-on after December 31, 2022.

(7) For dates of services beginning July 1, 2022, the PDPM nursing component per diem for each nursing facility shall be the product of the facility's (i) statewide PDPM nursing base per diem rate, \$92.25, adjusted for the facility average PDPM case mix index calculated quarterly and (ii) the regional wage adjuster, and then add the Medicaid access adjustment as defined in (e-3) of this Section. Transition rates for services provided between July 1, 2022 and October 1, 2023 shall be the greater of the PDPM nursing component per diem or:

(A) for the quarter beginning July 1, 2022, the RUG-IV nursing component per diem;

(B) for the quarter beginning October 1, 2022, the sum of the RUG-IV nursing component per diem multiplied by 0.80 and the PDPM nursing component per diem multiplied by 0.20;

(C) for the quarter beginning January 1, 2023, the sum of the RUG-IV nursing component per diem multiplied by 0.60 and the PDPM nursing component per diem multiplied by 0.40;

(D) for the quarter beginning April 1, 2023, the sum of the RUG-IV nursing component per diem multiplied by 0.40 and the PDPM nursing component per diem multiplied by 0.60;

(E) for the quarter beginning July 1, 2023, the sum of the RUG-IV nursing component per diem multiplied by 0.20 and the PDPM nursing component per diem multiplied by 0.80; or

(F) for the quarter beginning October 1, 2023 and each subsequent quarter, the transition rate shall end and a nursing facility shall be paid 100% of the PDPM nursing component per diem.

(d-1) Calculation of base year Statewide RUG-IV nursing base per diem rate.

(1) Base rate spending pool shall be:

(A) The base year resident days which are calculated by multiplying the number of Medicaid residents in each nursing home as indicated in the MDS data defined in paragraph (4) by 365.

(B) Each facility's nursing component per diem in effect on July 1, 2012 shall be multiplied by subsection (A).

(C) Thirteen million is added to the product of subparagraph (A) and subparagraph (B) to adjust for the exclusion of nursing homes defined in paragraph (5).

(2) For each nursing home with Medicaid residents as indicated by the MDS data defined in paragraph (4), weighted days adjusted for case mix and regional wage adjustment shall be calculated. For each home this calculation is the product of:

(A) Base year resident days as calculated in subparagraph (A) of paragraph (1).

(B) The nursing home's regional wage adjustor based on the Health Service Areas (HSA) groupings and adjustors in effect on April 30, 2012.

(C) Facility weighted case mix which is the number of Medicaid residents as indicated by the MDS data defined in paragraph (4) multiplied by the associated case weight for the RUG-IV 48 grouper model using standard RUG-IV procedures for index maximization.

(D) The sum of the products calculated for each nursing home in subparagraphs (A) through (C) above shall be the base year case mix, rate adjusted weighted days.

(3) The Statewide RUG-IV nursing base per diem rate:

(A) on January 1, 2014 shall be the quotient of the paragraph (1) divided by the sum calculated under subparagraph (D) of paragraph (2);

(B) on and after July 1, 2014 and until July 1, 2022, shall be the amount calculated under subparagraph (A) of this paragraph (3) plus \$1.76; and

(C) beginning July 1, 2022 and thereafter, \$7 shall be added to the amount calculated under subparagraph (B) of this paragraph (3) of this Section.

(4) Minimum Data Set (MDS) comprehensive assessments for Medicaid residents on the last day of the quarter used to establish the base rate.

(5) Nursing facilities designated as of July 1, 2012 by the Department as "Institutions for Mental Disease" shall be excluded from all calculations under this subsection. The data from these facilities shall not be used in the computations described in paragraphs (1) through (4) above to establish the base rate.

(e) Beginning July 1, 2014, the Department shall allocate funding in the amount up to \$10,000,000 for per diem add-ons to the RUGS methodology for dates of service on and after July 1, 2014:

(1) \$0.63 for each resident who scores in I4200 Alzheimer's Disease or I4800 non-Alzheimer's Dementia.

(2) \$2.67 for each resident who scores either a "1" or "2" in any items S1200A through S1200I and also scores in RUG groups PA1, PA2, BA1, or BA2.

(e-1) (Blank).

(e-2) For dates of services beginning January 1, 2014 and ending September 30, 2023, the RUG-IV nursing component per diem for a nursing home shall be the product of the statewide RUG-IV nursing base per diem rate, the facility average case mix index, and the regional wage adjustor. For dates of service beginning July 1, 2022 and ending September 30, 2023, the Medicaid access adjustment described in subsection (e-3) shall be added to the product.

(e-3) A Medicaid Access Adjustment of \$4 adjusted for the facility average PDPM case mix index calculated quarterly shall be added to the statewide PDPM nursing per diem for all facilities with annual Medicaid bed days of at least 70% of all occupied bed days adjusted quarterly. For each new calendar year and for the 6-month period beginning July 1, 2022, the percentage of a facility's occupied bed days comprised of Medicaid bed days shall be determined by the Department quarterly. For dates of service beginning January 1, 2023, the Medicaid Access Adjustment shall be increased to \$4.75. This subsection shall be inoperative on and after January 1, 2028.

(f) (Blank).

(g) Notwithstanding any other provision of this Code, on and after July 1, 2012, for facilities not designated by the Department of Healthcare and Family Services as "Institutions for Mental Disease", rates effective May 1, 2011 shall be adjusted as follows:

(1) (Blank);

(2) (Blank);

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(3) Facility rates for the capital and support components shall be reduced by 1.7%.

(h) Notwithstanding any other provision of this Code, on and after July 1, 2012, nursing facilities designated by the Department of Healthcare and Family Services as "Institutions for Mental Disease" and "Institutions for Mental Disease" that are facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013 shall have the nursing, socio-developmental, capital, and support components of their reimbursement rate effective May 1, 2011 reduced in total by 2.7%.

(i) On and after July 1, 2014, the reimbursement rates for the support component of the nursing facility rate for facilities licensed under the Nursing Home Care Act as skilled or intermediate care facilities shall be the rate in effect on June 30, 2014 increased by 8.17%.

(j) Notwithstanding any other provision of law, subject to federal approval, effective July 1, 2019, sufficient funds shall be allocated for changes to rates for facilities licensed under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities for dates of services on and after July 1, 2019: (i) to establish, through June 30, 2022 a per diem add-on to the direct care per diem rate not to exceed \$70,000,000 annually in the aggregate taking into account federal matching funds for the purpose of addressing the facility's unique staffing needs, adjusted quarterly and distributed by a weighted formula based on Medicaid bed days on the last day of the second quarter preceding the quarter for which the rate is being adjusted. Beginning July 1, 2022, the annual \$70,000,000 described in the preceding sentence shall be dedicated to the variable per diem add-on for staffing under paragraph (6) of subsection (d); and (ii) in an amount not to exceed \$170,000,000 annually in the aggregate taking into account federal matching funds to permit the support component of the nursing facility rate to be updated as follows:

(1) 80%, or \$136,000,000, of the funds shall be used to update each facility's rate in effect on June 30, 2019 using the most recent cost reports on file, which have had a limited review conducted by the Department of Healthcare and Family Services and will not hold up enacting the rate increase, with the Department of Healthcare and Family Services.

(2) After completing the calculation in paragraph (1), any facility whose rate is less than the rate in effect on June 30, 2019 shall have its rate restored to the rate in effect on June 30, 2019 from the 20% of the funds set aside.

(3) The remainder of the 20%, or \$34,000,000, shall be used to increase each facility's rate by an equal percentage.

(k) During the first quarter of State Fiscal Year 2020, the Department of Healthcare of Family Services must convene a technical advisory group consisting of members of all trade associations representing Illinois skilled nursing providers to discuss changes necessary with federal implementation of Medicare's Patient-Driven Payment Model. Implementation of Medicare's Patient-Driven Payment Model shall, by September 1, 2020, end the collection of the MDS data that is necessary to maintain the current RUG-IV Medicaid payment methodology. The technical advisory group must consider a revised reimbursement methodology that takes into account transparency, accountability, actual staffing as reported under the federally required Payroll Based Journal system, changes to the minimum wage, adequacy in coverage of the cost of care, and a quality component that rewards quality improvements.

(1) The Department shall establish per diem add-on payments to improve the quality of care delivered by facilities, including:

(1) Incentive payments determined by facility performance on specified quality measures in an initial amount of \$70,000,000. Nothing in this subsection shall be construed to limit the quality of care payments in the aggregate statewide to \$70,000,000, and, if quality of care has improved across nursing facilities, the Department shall adjust those add-on payments accordingly. The quality payment methodology described in this subsection must be used for at least State Fiscal Year 2023. Beginning with the quarter starting July 1, 2023, the Department may add, remove, or change quality metrics and make associated changes to the quality payment methodology as outlined in subparagraph (E). Facilities designated by the Centers for Medicare and Medicaid Services as a special focus facility or a hospital-based nursing home do not qualify for quality payments.

(A) Each quality pool must be distributed by assigning a quality weighted score for each nursing home which is calculated by multiplying the nursing home's quality base period Medicaid days by the nursing home's star rating weight in that period.

(B) Star rating weights are assigned based on the nursing home's star rating for the LTS quality star rating. As used in this subparagraph, "LTS quality star rating" means the long-term stay quality rating for each nursing facility, as assigned by the Centers for Medicare and

Medicaid Services under the Five-Star Quality Rating System. The rating is a number ranging from 0 (lowest) to 5 (highest).

(i) Zero-star or one-star rating has a weight of 0.

(ii) Two-star rating has a weight of 0.75.

(iii) Three-star rating has a weight of 1.5.

(iv) Four-star rating has a weight of 2.5.

(v) Five-star rating has a weight of 3.5.

(C) Each nursing home's quality weight score is divided by the sum of all quality weight scores for qualifying nursing homes to determine the proportion of the quality pool to be paid to the nursing home.

(D) The quality pool is no less than \$70,000,000 annually or \$17,500,000 per quarter. The Department shall publish on its website the estimated payments and the associated weights for each facility 45 days prior to when the initial payments for the quarter are to be paid. The Department shall assign each facility the most recent and applicable quarter's STAR value unless the facility notifies the Department within 15 days of an issue and the facility provides reasonable evidence demonstrating its timely compliance with federal data submission requirements for the quarter of record. If such evidence cannot be provided to the Department, the STAR rating assigned to the facility shall be reduced by one from the prior quarter.

(E) The Department shall review quality metrics used for payment of the quality pool and make recommendations for any associated changes to the methodology for distributing quality pool payments in consultation with associations representing long-term care providers, consumer advocates, organizations representing workers of long-term care facilities, and payors. The Department may establish, by rule, changes to the methodology for distributing quality pool payments.

(F) The Department shall disburse quality pool payments from the Long-Term Care Provider Fund on a monthly basis in amounts proportional to the total quality pool payment determined for the quarter.

(G) The Department shall publish any changes in the methodology for distributing quality pool payments prior to the beginning of the measurement period or quality base period for any metric added to the distribution's methodology.

(2) Payments based on CNA tenure, promotion, and CNA training for the purpose of increasing CNA compensation. It is the intent of this subsection that payments made in accordance with this paragraph be directly incorporated into increased compensation for CNAs. As used in this paragraph, "CNA" means a certified nursing assistant as that term is described in Section 3-206 of the Nursing Home Care Act, Section 3-206 of the ID/DD Community Care Act, and Section 3-206 of the MC/DD Act. The Department shall establish, by rule, payments to nursing facilities equal to Medicaid's share of the tenure wage increments specified in this paragraph for all reported CNA employee hours compensated according to a posted schedule consisting of increments at least as large as those specified in this paragraph. The increments are as follows: an additional \$1.50 per hour for CNAs with at least one and less than 2 years' experience plus another \$1 per hour for each additional year of experience up to a maximum of \$6.50 for CNAs with at least 6 years of experience. For purposes of this paragraph, Medicaid's share shall be the ratio determined by paid Medicaid bed days divided by total bed days for the applicable time period used in the calculation. In addition, and additive to any tenure increments paid as specified in this paragraph, the Department shall establish, by rule, payments supporting Medicaid's share of the promotion-based wage increments for CNA employee hours compensated for that promotion with at least a \$1.50 hourly increase. Medicaid's share shall be established as it is for the tenure increments described in this paragraph. Qualifying promotions shall be defined by the Department in rules for an expected 10-15% subset of CNAs assigned intermediate, specialized, or added roles such as CNA trainers, CNA scheduling "captains", and CNA specialists for resident conditions like dementia or memory care or behavioral health.

(m) The Department shall work with nursing facility industry representatives to design policies and procedures to permit facilities to address the integrity of data from federal reporting sites used by the Department in setting facility rates.

(Source: P.A. 101-10, eff. 6-5-19; 101-348, eff. 8-9-19; 102-77, eff. 7-9-21; 102-558, eff. 8-20-21; 102-1035, eff. 5-31-22.)

(305 ILCS 5/5-5.7b)

[January 6, 2023]

Sec. 5-5.7b. Pandemic related stability payments to ambulance service providers in response to COVID-19.

(a) Definitions. As used in this Section:

"Ambulance Services Industry" means the industry that is comprised of "Qualifying Ground Ambulance Service Providers", as defined in this Section.

"Qualifying Ground Ambulance Service Provider" means a "vehicle service provider," as that term is defined in Section 3.85 of the Emergency Medical Services (EMS) Systems Act, which operates licensed ambulances for the purpose of providing emergency, non-emergency ambulance services, or both emergency and non-emergency ambulance services. The term "Qualifying Ground Ambulance Service Provider" is limited to ambulance and EMS agencies that are privately held and nonprofit organizations headquartered within the State and licensed by the Department of Public Health as of March 12, 2020.

"Eligible worker" means a staff member of a Qualifying Ground Ambulance Service Provider engaged in "essential work", as defined by Section 9901 of the ARPA and related federal guidance, and (1) whose total pay is below 150% of the average annual wage for all occupations in the worker's county of residence, as defined by the BLS Occupational Employment and Wage Statistics or (2) is not exempt from the federal Fair Labor Standards Act overtime provisions.

(b) Purpose. The Department may receive federal funds under the authority of legislation passed in response to the Coronavirus epidemic, including, but not limited to, the American Rescue Plan Act of 2021, P.L. 117-2 (the "ARPA"). Upon receipt or availability of such State or federal funds, and subject to appropriations for their use, the Department shall establish and administer programs for purposes allowable under Section 9901 of the ARPA to provide financial assistance to Qualifying Ground Ambulance Service Providers for premium pay for eligible workers, to provide reimbursement for eligible expenditures, and to provide support following the negative economic impact of the COVID-19 public health emergency on the Ambulance Services Industry. Financial assistance may include, but is not limited to, grants, expense reimbursements, or subsidies.

(b-1) By December 31, 2022, the Department shall obtain appropriate documentation from Qualifying Ground Ambulance Service Providers to ascertain an accurate count of the number of licensed vehicles available to serve enrollees in the State's medical assistance programs, which shall be known as the "total eligible vehicles". By February 28, 2023, Qualifying Ground Ambulance Service Providers shall be initially notified of their eligible award, which shall be the product of (i) the total amount of funds allocated under this Section and (ii) a quotient, the numerator of which is the number of licensed ground ambulance vehicles of an individual Qualifying Ground Ambulance Service Provider and the denominator of which is the total eligible vehicles. After March 31, 2024, any unobligated funds shall be reallocated pro rata to the remaining Qualifying Ground Ambulance Service Providers that are able to prove up eligible expenses in excess of their initial award amount until all such appropriated funds are exhausted.

Providers shall indicate to the Department what portion of their award they wish to allocate under the purposes outlined under paragraphs (d), (e), or (f), if applicable, of this Section.

(c) Non-Emergency Service Certification. To be eligible for funding under this Section, a Qualifying Ground Ambulance Service Provider that provides non-emergency services to institutional residents must certify whether or not it is able to that it will provide non-emergency ambulance services to individuals enrolled in the State's Medical Assistance Program and residing in non-institutional settings for at least one year following the receipt of funding pursuant to this amendatory Act of the 102nd General Assembly. Certification indicating that a provider has such an ability does not mean that a provider is required to accept any or all requested transports. The provider shall maintain the certification in its records. The provider shall also maintain documentation of all non emergency ambulance services for the period covered by the certification. The provider shall produce the certification and supporting documentation upon demand by the Department or its representative. Failure to comply shall result in recovery of any payments made by the Department.

(d) Premium Pay Initiative. Subject to paragraph (c) of this Section, the Department shall establish a Premium Pay Initiative to distribute awards to each Qualifying Ground Ambulance Service Provider for the purpose of providing premium pay to eligible workers.

(1) Financial assistance pursuant to this paragraph (d) shall be scaled based on a process determined by the Department. The amount awarded to each Qualifying Ground Ambulance Service Provider shall be up to \$13 per hour for each eligible worker employed.

(2) The financial assistance awarded shall only be expended for premium pay for eligible workers, which must be in addition to any wages or remuneration the eligible worker has already received and shall be subject to the other requirements and limitations set forth in the ARPA and related federal guidance.

(3) Upon receipt of funds, the Qualifying Ground Ambulance Service Provider shall distribute funds such that an eligible worker receives an amount up to \$13 per hour but no more than \$25,000 for the duration of the program. The Qualifying Ground Ambulance Service Provider shall provide a written certification to the Department acknowledging compliance with this paragraph (d).

(4) No portion of these funds shall be spent on volunteer staff.

(5) These funds shall not be used to make retroactive premium payments prior to the effective date of this amendatory Act of the 102nd General Assembly.

(6) The Department shall require each Qualifying Ground Ambulance Service Provider that receives funds under this paragraph (d) to submit appropriate documentation acknowledging compliance with State and federal law on an annual basis.

(e) COVID-19 Response Support Initiative. Subject to paragraph (c) of this Section and based on an application filed by a Qualifying Ground Ambulance Service Provider, the Department shall establish the Ground Ambulance COVID-19 Response Support Initiative. The purpose of the award shall be to reimburse Qualifying Ground Ambulance Service Providers for eligible expenses under Section 9901 of the ARPA related to the public health impacts of the COVID-19 public health emergency, including, but not limited to: (i) costs incurred due to the COVID-19 public health emergency; (ii) costs related to vaccination programs, including vaccine incentives; (iii) costs related to COVID-19 testing; (iv) costs related to COVID-19 prevention and treatment equipment; (v) expenses for medical supplies; (vi) expenses for personal protective equipment; (ix) costs related to other emergency response equipment, such as ground ambulances, ventilators, cardiac monitoring equipment, defibrillation equipment, pacing equipment, ambulance stretchers, and radio equipment; COVID 19 prevention and treatment equipment; defibrillation equipment, medical supplies, personal protective equipment, and other emergency medical response expenses.

(1) The award shall be for eligible <u>obligated</u> expenditures incurred no earlier than May 1, 2022 and no later than June 30, <u>2024</u> 2023. Expenditures under this paragraph must be incurred by June 30, 2025.

(2) Funds awarded under this paragraph (e) shall not be expended for premium pay to eligible workers.

(3) The Department shall require each Qualifying Ground Ambulance Service Provider that receives funds under this paragraph (e) to submit appropriate documentation acknowledging compliance with State and federal law on an annual basis. For purchases of medical equipment or other capital expenditures, the Qualifying Ground Ambulance Service Provider shall include documentation that describes the harm or need to be addressed by the expenditures and how that capital expenditure is appropriate to address that identified harm or need.

(f) Ambulance Industry Recovery Program. If the Department designates the Ambulance Services Industry as an "impacted industry", as defined by the ARPA and related federal guidance, the Department shall establish the Ambulance Industry Recovery Grant Program, to provide aid to Qualifying Ground Ambulance Service Providers that experienced staffing losses due to the COVID-19 public health emergency.

(1) Funds awarded under this paragraph (f) shall not be expended for premium pay to eligible workers.

(2) Each Qualifying Ground Ambulance Service Provider that receives funds under this paragraph (f) shall comply with paragraph (c) of this Section.

(3) The Department shall require each Qualifying Ground Ambulance Service Provider that receives funds under this paragraph (f) to submit appropriate documentation acknowledging compliance with State and federal law on an annual basis.

(Source: P.A. 102-699, eff. 4-19-22.)

(305 ILCS 5/5B-2) (from Ch. 23, par. 5B-2)

Sec. 5B-2. Assessment; no local authorization to tax.

(a) For the privilege of engaging in the occupation of long-term care provider, beginning July 1, 2011 through June 30, 2022, or upon federal approval by the Centers for Medicare and Medicaid Services of the long-term care provider assessment described in subsection (a-1), whichever is later, an assessment is imposed upon each long-term care provider in an amount equal to \$6.07 times the number of occupied bed

[January 6, 2023]

days due and payable each month. Notwithstanding any provision of any other Act to the contrary, this assessment shall be construed as a tax, but shall not be billed or passed on to any resident of a nursing home operated by the nursing home provider.

(a-1) For the privilege of engaging in the occupation of long-term care provider for each occupied non-Medicare bed day, beginning July 1, 2022, an assessment is imposed upon each long-term care provider in an amount varying with the number of paid Medicaid resident days per annum in the facility with the following schedule of occupied bed tax amounts. This assessment is due and payable each month. The tax shall follow the schedule below and be rebased by the Department on an annual basis. The Department shall publish each facility's rebased tax rate according to the schedule in this Section 30 days prior to the beginning of the 6-month period beginning July 1, 2022 and thereafter 30 days prior to the beginning of each calendar year which shall incorporate the number of paid Medicaid days used to determine each facility's rebased tax rate.

(1) 0-5,000 paid Medicaid resident days per annum, \$10.67.

(2) 5,001-15,000 paid Medicaid resident days per annum, \$19.20.

(3) 15,001-35,000 paid Medicaid resident days per annum, \$22.40.

(4) 35,001-55,000 paid Medicaid resident days per annum, \$19.20.

(5) 55,001-65,000 paid Medicaid resident days per annum, \$13.86.

(6) 65,001+ paid Medicaid resident days per annum, \$10.67.

(7) Any non-profit nursing facilities without Medicaid-certified beds or any nursing facility owned and operated by a county government, \$7 per occupied bed day. The changes made by this amendatory Act of the 102nd General Assembly to this paragraph (7) shall be implemented only upon federal approval.

Notwithstanding any provision of any other Act to the contrary, this assessment shall be construed as a tax but shall not be billed or passed on to any resident of a nursing home operated by the nursing home provider.

For each new calendar year and for the 6-month period beginning July 1, 2022, a facility's paid Medicaid resident days per annum shall be determined using the Department's Medicaid Management Information System to include Medicaid resident days for the year ending 9 months earlier.

(b) Nothing in this amendatory Act of 1992 shall be construed to authorize any home rule unit or other unit of local government to license for revenue or impose a tax or assessment upon long-term care providers or the occupation of long-term care provider, or a tax or assessment measured by the income or earnings or occupied bed days of a long-term care provider.

(c) The assessment imposed by this Section shall not be due and payable, however, until after the Department notifies the long-term care providers, in writing, that the payment methodologies to long-term care providers required under Section 5-5.2 of this Code have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services and that the waivers under 42 CFR 433.68 for the assessment imposed by this Section, if necessary, have been granted by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. (Source: P.A. 102-1035, eff. 5-31-22.)

Section 40. The Rebuild Illinois Mental Health Workforce Act is amended by changing Sections 20-10 and 20-20 as follows:

(305 ILCS 66/20-10)

Sec. 20-10. Medicaid funding for community mental health services. Medicaid funding for the specific community mental health services listed in this Act shall be adjusted and paid as set forth in this Act. Such payments shall be paid in addition to the base Medicaid reimbursement rate and add-on payment rates per service unit.

(a) The payment adjustments shall begin on July 1, 2022 for State Fiscal Year 2023 and shall continue for every State fiscal year thereafter.

(1) Individual Therapy Medicaid Payment rate for services provided under the H0004 Code:

(A) The Medicaid total payment rate for individual therapy provided by a qualified mental health professional shall be increased by no less than \$9 per service unit.

(B) The Medicaid total payment rate for individual therapy provided by a mental health professional shall be increased by no less then \$9 per service unit.

(2) Community Support - Individual Medicaid Payment rate for services provided under the H2015 Code: All community support - individual services shall be increased by no less than \$15 per service unit.

(3) Case Management Medicaid Add-on Payment for services provided under the T1016 code: All case management services rates shall be increased by no less than \$15 per service unit.

(4) Assertive Community Treatment Medicaid Add-on Payment for services provided under the H0039 code: The Medicaid total payment rate for assertive community treatment services shall increase by no less than \$8 per service unit.

(5) Medicaid user-based directed payments.

(A) For each State fiscal year, a monthly directed payment shall be paid to a community mental health provider of community support team services based on the number of Medicaid users of community support team services documented by Medicaid fee-for-service and managed care encounter claims delivered by that provider in the base year. The Department of Healthcare and Family Services shall make the monthly directed payment to each provider entitled to directed payments under this Act by no later than the last day of each month throughout each State fiscal year.

(i) The monthly directed payment for a community support team provider shall be calculated as follows: The sum total number of individual Medicaid users of community support team services delivered by that provider throughout the base year, multiplied by \$4,200 per Medicaid user, divided into 12 equal monthly payments for the State fiscal year.

(ii) As used in this subparagraph, "user" means an individual who received at least 200 units of community support team services (H2016) during the base year.

(B) For each State fiscal year, a monthly directed payment shall be paid to each community mental health provider of assertive community treatment services based on the number of Medicaid users of assertive community treatment services documented by Medicaid fee-for-service and managed care encounter claims delivered by the provider in the base year.

(i) The monthly direct payment for an assertive community treatment provider shall be calculated as follows: The sum total number of Medicaid users of assertive community treatment services provided by that provider throughout the base year, multiplied by \$6,000 per Medicaid user, divided into 12 equal monthly payments for that State fiscal year.

(ii) As used in this subparagraph, "user" means an individual that received at least 300 units of assertive community treatment services during the base year.

(C) The base year for directed payments under this Section shall be calendar year 2019 for State Fiscal Year 2023 and State Fiscal Year 2024. For the State fiscal year beginning on July 1, 2024, and for every State fiscal year thereafter, the base year shall be the calendar year that ended 18 months prior to the start of the State fiscal year in which payments are made.

(b) Subject to federal approval, a one-time directed payment must be made in calendar year 2023 for community mental health services provided by community mental health providers. The one-time directed payment shall be for an amount appropriated for these purposes. The one-time directed payment shall be for services for Integrated Assessment and Treatment Planning and other intensive services, including, but not limited to, services for Mobile Crisis Response, crisis intervention, medication monitoring, and group services.

(Source: P.A. 102-699, eff. 4-19-22.)

(305 ILCS 66/20-20)

Sec. 20-20. Base Medicaid rates or add-on payments.

(a) For services under subsection (a) of Section 20-10. No base Medicaid rate or Medicaid rate add-on payment or any other payment for the provision of Medicaid community mental health services in place on July 1, 2021 shall be diminished or changed to make the reimbursement changes required by this Act. Any payments required under this Act that are delayed due to implementation challenges or federal approval shall be made retroactive to July 1, 2022 for the full amount required by this Act regardless of the amount a provider bills Illinois' Medical Assistance Program (via a Medicaid managed care organization or the Department of Healthcare and Family Services directly) for such services.

(b) For directed payments under subsection (b) of Section 20-10. No base Medicaid rate payment or any other payment for the provision of Medicaid community mental health services in place on January 1,

2023 shall be diminished or changed to make the reimbursement changes required by this Act. The Department of Healthcare and Family Services must pay the directed payment in one installment within 60 days of receiving federal approval.

(Source: P.A. 102-699, eff. 4-19-22.)

Section 45. The Code of Criminal Procedure of 1963 is amended by changing Sections 104-17 and 104-23 as follows:

(725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

Sec. 104-17. Commitment for treatment; treatment plan.

(a) If the defendant is eligible to be or has been released on pretrial release or on his own recognizance, the court shall select the least physically restrictive form of treatment therapeutically appropriate and consistent with the treatment plan. The placement may be ordered either on an inpatient or an outpatient basis.

(b) If the defendant's disability is mental, the court may order him placed for secure treatment in the custody of the Department of Human Services, or the court may order him placed in the custody of any other appropriate public or private mental health facility or treatment program which has agreed to provide treatment to the defendant. If the most serious charge faced by the defendant is a misdemeanor, the court shall order outpatient treatment, unless the court finds good cause on the record to order inpatient treatment. If the court orders the defendant to inpatient treatment placed in the custody of the Department of Human Services, the Department shall evaluate the defendant to determine the most appropriate to which secure facility to receive the defendant shall be transported and, within 20 days of the transmittal by the clerk of the circuit court of the court's placement court order, notify the court of sheriff of the designated facility to receive the defendant. The Department shall admit the defendant to a secure facility within 60 days of the transmittal of the court's placement order, unless the Department can demonstrate good faith efforts at placement and a lack of bed and placement availability. If placement cannot be made within 60 days of the transmittal of the court's placement order and the Department has demonstrated good faith efforts at placement and a lack of bed and placement availability, the Department shall provide an update to the ordering court every 30 days until the defendant is placed. Once bed and placement availability is determined, the Department shall notify Upon receipt of that notice, the sheriff who shall promptly transport the defendant to the designated facility. If the defendant is placed in the custody of the Department of Human Services, the defendant shall be placed in a secure setting. During the period of time required to determine bed and placement availability at the designated facility, the appropriate placement the defendant shall remain in jail. If during the course of evaluating the defendant for placement, the Department of Human Services determines that the defendant is currently fit to stand trial, it shall immediately notify the court and shall submit a written report within 7 days. In that circumstance the placement shall be held pending a court hearing on the Department's report. Otherwise, upon completion of the placement process, including identifying bed and placement availability, the sheriff shall be notified and shall transport the defendant to the designated facility. If, within 60 20 days of the transmittal by the clerk of the circuit court of the court's placement court order, the Department fails to provide notify the sheriff with notice of bed and placement availability at the designated facility, of the identity of the facility to which the defendant shall be transported, the sheriff shall contact a designated person within the Department to inquire about when a placement will become available at the designated facility as well as bed and placement and bed availability at other secure facilities. If, within 20 days of the transmittal by the clerk of the circuit court of the placement court order, the Department fails to notify the sheriff of the identity of the facility to which the defendant shall be transported, the sheriff shall notify the Department of its intent to transfer the defendant to the nearest secure mental health facility operated by the Department and inquire as to the status of the placement evaluation and availability for admission to such facility operated by the Department by contacting a designated person within the Department. The Department shall respond to the sheriff within 2 business days of the notice and inquiry by the sheriff seeking the transfer and the Department shall provide the sheriff with the status of the evaluation, information on bed and placement availability, and an estimated date of admission for the defendant and any changes to that estimated date of admission. If the Department notifies the sheriff during the 2 business day period of a facility operated by the Department with placement availability, the sheriff shall promptly transport the defendant to that facility. The placement may be ordered either on an inpatient or an outpatient basis.

(c) If the defendant's disability is physical, the court may order him placed under the supervision of the Department of Human Services which shall place and maintain the defendant in a suitable treatment

facility or program, or the court may order him placed in an appropriate public or private facility or treatment program which has agreed to provide treatment to the defendant. The placement may be ordered either on an inpatient or an outpatient basis.

(d) The clerk of the circuit court shall within 5 days of the entry of the order transmit to the Department, agency or institution, if any, to which the defendant is remanded for treatment, the following:

(1) a certified copy of the order to undergo treatment. Accompanying the certified copy of the order to undergo treatment shall be the complete copy of any report prepared under Section 104-15 of this Code or other report prepared by a forensic examiner for the court;

(2) the county and municipality in which the offense was committed;

(3) the county and municipality in which the arrest took place;

(4) a copy of the arrest report, criminal charges, arrest record; and

(5) all additional matters which the Court directs the clerk to transmit.

(e) Within 30 days of <u>admission to the designated facility</u> entry of an order to undergo treatment, the person supervising the defendant's treatment shall file with the court, the State, and the defense a report assessing the facility's or program's capacity to provide appropriate treatment for the defendant and indicating his opinion as to the probability of the defendant's attaining fitness within a period of time from the date of the finding of unfitness. For a defendant charged with a felony, the period of time shall be one year. For a defendant charged with a misdemeanor, the period of time shall be no longer than the sentence if convicted of the most serious offense. If the report indicates that there is a substantial probability that the defendant will attain fitness within the time period, the treatment supervisor shall also file a treatment plan which shall include:

(1) A diagnosis of the defendant's disability;

(2) A description of treatment goals with respect to rendering the defendant fit, a specification of the proposed treatment modalities, and an estimated timetable for attainment of the goals;

(3) An identification of the person in charge of supervising the defendant's treatment.

(Source: P.A. 100-27, eff. 1-1-18; 101-652, eff. 1-1-23.)

(725 ILCS 5/104-23) (from Ch. 38, par. 104-23)

Sec. 104-23. Unfit defendants. Cases involving an unfit defendant who demands a discharge hearing or a defendant who cannot become fit to stand trial and for whom no special provisions or assistance can compensate for his disability and render him fit shall proceed in the following manner:

(a) Upon a determination that there is not a substantial probability that the defendant will attain fitness within the time period set in subsection (e) of Section 104-17 of this Code from the original finding of unfitness, the court shall hold a discharge hearing within 60 days, unless good cause is shown for the delay. a defendant or the attorney for the defendant may move for a discharge hearing pursuant to the provisions of Section 104-25. The discharge hearing shall be held within 120 days of the filing of a motion for a discharge hearing, unless the delay is occasioned by the defendant.

(b) If at any time the court determines that there is not a substantial probability that the defendant will become fit to stand trial or to plead within the time period set in subsection (e) of Section 104-17 of this Code from the date of the original finding of unfitness, or if at the end of the time period set in subsection (e) of Section 104-17 of this Code from that date the court finds the defendant still unfit and for whom no special provisions or assistance can compensate for his disabilities and render him fit, the State shall request the court:

(1) To set the matter for hearing pursuant to Section 104-25 unless a hearing has already been held pursuant to paragraph (a) of this Section; or

(2) To release the defendant from custody and to dismiss with prejudice the charges against him; or

(3) To remand the defendant to the custody of the Department of Human Services and order a hearing to be conducted pursuant to the provisions of the Mental Health and Developmental Disabilities Code, as now or hereafter amended. The Department of Human Services shall have 7 days from the date it receives the defendant to prepare and file the necessary petition and certificates that are required for commitment under the Mental Health and Developmental Disabilities Code. If the defendant is committed to the Department of Human Services pursuant to such hearing, the court having jurisdiction over the criminal matter shall dismiss the charges against the defendant, with the leave to reinstate. In such cases the Department of Human Services shall notify the court, the State's attorney and the defense attorney upon the discharge of the defendant. A former defendant so committed shall be treated in the same manner as any other civilly committed patient for all purposes

including admission, selection of the place of treatment and the treatment modalities, entitlement to rights and privileges, transfer, and discharge. A defendant who is not committed shall be remanded to the court having jurisdiction of the criminal matter for disposition pursuant to subparagraph (1) or (2) of paragraph (b) of this Section.

(c) If the defendant is restored to fitness and the original charges against him are reinstated, the speedy trial provisions of Section 103-5 shall commence to run. (Source: P.A. 98-1025, eff. 8-22-14.)

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

The motion prevailed. And the amendment was adopted and ordered printed. Senator Gillespie offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 240

AMENDMENT NO. 2 . Amend House Bill 240, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 58, lines 19 and 20, by replacing "medication monitoring, and group services." with "and medication monitoring. The amounts and services used for designing and distributing these one-time directed payments shall not be construed to require any future rate or funding increases for the same or other mental health services."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Gillespie, **House Bill No. 240** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Tracy

YEAS 32; NAYS 15.

Joyce

The following voted in the affirmative:

Rose

Aquino Castro Collins Cunningham Curran Ellman Fine Fowler Gillespie The following voted	Glowiak Hilton Hall Harris Holmes Hunter Johnson Jones, E. Koehler Landek d in the negative:	McConchie Morrison Murphy Pacione-Zayas Pappas Peters Rezin Sims Stadelman	Syverson Van Pelt Villanueva Villivalam Mr. President
C	0		
Bailey	Martwick	Stewart	Turner, D.
Bennett	Mattson	Stoller	Turner, S.
DeWitte	McClure	Tharp	Wilcox

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Hollman, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1001

A bill for AN ACT concerning liquor.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 2 to SENATE BILL NO. 1001

Passed the House, as amended, January 6, 2023.

JOHN W. HOLLMAN, Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 1001

AMENDMENT NO. 2 Amend Senate Bill 1001 on page 1, line 5, by replacing "Section" with "Sections 5-1 and"; and

on page 1, immediately below line 5, by inserting the following:

"(235 ILCS 5/5-1) (from Ch. 43, par. 115)

Sec. 5-1. Licenses issued by the Illinois Liquor Control Commission shall be of the following classes:

(a) Manufacturer's license - Class 1. Distiller, Class 2. Rectifier, Class 3. Brewer, Class 4. First Class Wine Manufacturer, Class 5. Second Class Wine Manufacturer, Class 6. First Class Winemaker, Class 7. Second Class Winemaker, Class 8. Limited Wine Manufacturer, Class 9. Craft Distiller, Class 10. Class 1 Craft Distiller, Class 11. Class 2 Craft Distiller, Class 12. Class 1 Brewer, Class 13. Class 2 Brewer, Class 14. Class 3 Brewer,

(b) Distributor's license,

- (c) Importing Distributor's license,
- (d) Retailer's license,
- (e) Special Event Retailer's license (not-for-profit),
- (f) Railroad license,
- (g) Boat license,
- (h) Non-Beverage User's license,
- (i) Wine-maker's premises license,
- (j) Airplane license,
- (k) Foreign importer's license,
- (1) Broker's license,
- (m) Non-resident dealer's license,
- (n) Brew Pub license,
- (o) Auction liquor license,
- (p) Caterer retailer license,
- (q) Special use permit license,
- (r) Winery shipper's license,
- (s) Craft distiller tasting permit,
- (t) Brewer warehouse permit,
- (u) Distilling pub license,
- (v) Craft distiller warehouse permit,
- (w) Beer showcase permit.

No person, firm, partnership, corporation, or other legal business entity that is engaged in the manufacturing of wine may concurrently obtain and hold a wine-maker's license and a wine manufacturer's license.

(a) A manufacturer's license shall allow the manufacture, importation in bulk, storage, distribution and sale of alcoholic liquor to persons without the State, as may be permitted by law and to licensees in this State as follows:

Class 1. A Distiller may make sales and deliveries of alcoholic liquor to distillers, rectifiers, importing distributors, distributors and non-beverage users and to no other licensees.

Class 2. A Rectifier, who is not a distiller, as defined herein, may make sales and deliveries of alcoholic liquor to rectifiers, importing distributors, distributors, retailers and non-beverage users and to no other licensees.

Class 3. A Brewer may make sales and deliveries of beer to importing distributors and distributors and may make sales as authorized under subsection (e) of Section 6-4 of this Act, including any alcoholic liquor that subsection (e) of Section 6-4 authorizes a brewer to sell in its original package only to a non-licensee for pick-up by a non-licensee either within the interior of the brewery premises or at outside of the brewery premises at a curb-side or parking lot adjacent to the brewery premises, subject to any local ordinance.

Class 4. A first class wine-manufacturer may make sales and deliveries of up to 50,000 gallons of wine to manufacturers, importing distributors and distributors, and to no other licensees. If a first-class wine-manufacturer manufactures beer, it shall also obtain and shall only be eligible for, in addition to any current license, a class 1 brewer license, shall not manufacture more than 930,000 gallons of beer per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer spirits, it shall also obtain and shall only be eligible for, in addition to any current license, a class 1 brewer license, shall not manufacture more than 930,000 gallons of beer per year. If the first-class wine-manufacturer manufacturers spirits, it shall also obtain and shall only be eligible for, in addition to any current license, a class 1 craft distiller license, shall not manufacture more than 50,000 gallons of spirits per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 50,000 gallons of spirits per year, and shall not be a member of a filiated with, directly or indirectly, a manufacturer that produces more than 50,000 gallons of spirits per year. A first-class wine-manufacturer shall be permitted to sell wine manufactured at the first-class wine-manufacturer premises to non-licensees.

Class 5. A second class Wine manufacturer may make sales and deliveries of more than 50,000 gallons of wine to manufacturers, importing distributors and distributors and to no other licensees.

Class 6. A first-class wine-maker's license shall allow the manufacture of up to 50,000 gallons of wine per year, and the storage and sale of such wine to distributors in the State and to persons without the State, as may be permitted by law. A person who, prior to June 1, 2008 (the effective date of Public Act 95-634), is a holder of a first-class wine-maker's license and annually produces more than 25,000 gallons of its own wine and who distributes its wine to licensed retailers shall cease this practice on or before July 1, 2008 in compliance with Public Act 95-634. If a first-class wine-maker manufactures beer, it shall also obtain and shall only be eligible for, in addition to any current license, a class 1 brewer license, shall not manufacture more than 930,000 gallons of beer per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer spirits, it shall also obtain and shall only be eligible for, in addition to any current license, a class 1 brewer license, if the first-class wine-maker manufacture more than 930,000 gallons of beer per year, and shall not be eligible for, in addition to any current license, a class 1 brewer license, if the first-class wine-maker manufactures spirits, it shall also obtain and shall only be eligible for, in addition to any current license, a class 1 craft distiller license, shall not manufacture more than 50,000 gallons of spirits per year. A first-class wine-maker's premises license but shall be permitted to sell wine manufactured at the first-class wine-maker's premises license but shall be permitted to sell wine manufacture at the first-class wine-maker premises to non-licensees.

Class 7. A second-class wine-maker's license shall allow the manufacture of up to 150,000 gallons of wine per year, and the storage and sale of such wine to distributors in this State and to persons without the State, as may be permitted by law. A person who, prior to June 1, 2008 (the effective date of Public Act 95-634), is a holder of a second-class wine-maker's license and annually produces more than 25,000 gallons of its own wine and who distributes its wine to licensed retailers shall cease this practice on or before July 1, 2008 in compliance with Public Act 95-634. If a second-class wine-maker manufactures beer, it shall also obtain and shall only be eligible for, in addition to any current license, a class 2 brewer license, shall not manufacture more than 3,720,000 gallons of beer per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 3,720,000 gallons of beer per year. If a second-class wine-maker manufacture more than 100,000 gallons of on any current license, shall not be a member of or affiliated with, directly or indirectly, a manufacturer spirits, it shall also obtain and shall only be eligible for, in addition to any current license, active than 3,720,000 gallons of beer per year. If a second-class wine-maker manufacture more than 100,000 gallons of the angle obtain and shall only be eligible for, in addition to any current license, active that produces more than 3,720,000 gallons of beer per year.

spirits per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 100,000 gallons of spirits per year.

Class 8. A limited wine-manufacturer may make sales and deliveries not to exceed 40,000 gallons of wine per year to distributors, and to non-licensees in accordance with the provisions of this Act.

Class 9. A craft distiller license, which may only be held by a class 1 craft distiller licensee or class 2 craft distiller licensee but not held by both a class 1 craft distiller licensee and a class 2 craft distiller licensee, shall grant all rights conveyed by either: (i) a class 1 craft distiller license if the craft distiller holds a class 1 craft distiller license; or (ii) a class 2 craft distiller licensee if the craft distiller holds a class 2 craft distiller license.

Class 10. A class 1 craft distiller license, which may only be issued to a licensed craft distiller or licensed non-resident dealer, shall allow the manufacture of up to 50,000 gallons of spirits per year provided that the class 1 craft distiller licensee does not manufacture more than a combined 50,000 gallons of spirits per year and is not a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 50,000 gallons of spirits per year. If a class 1 craft distiller manufactures beer, it shall also obtain and shall only be eligible for, in addition to any current license, a class 1 brewer license, shall not manufacture more than 930,000 gallons of beer per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 930,000 gallons of beer per year. If a class 1 craft distiller manufactures wine, it shall also obtain and shall only be eligible for, in addition to any current license, a first-class wine-manufacturer license or a first-class wine-maker's license, shall not manufacture more than 50,000 gallons of wine per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 50,000 gallons of wine per year. A class 1 craft distiller licensee may make sales and deliveries to importing distributors and distributors and to retail licensees in accordance with the conditions set forth in paragraph (19) of subsection (a) of Section 3-12 of this Act. However, the aggregate amount of spirits sold to non-licensees and sold or delivered to retail licensees may not exceed 5,000 gallons per year.

A class 1 craft distiller licensee may sell up to 5,000 gallons of such spirits to non-licensees to the extent permitted by any exemption approved by the State Commission pursuant to Section 6-4 of this Act. A class 1 craft distiller license holder may store such spirits at a non-contiguous licensed location, but at no time shall a class 1 craft distiller license holder directly or indirectly produce in the aggregate more than 50,000 gallons of spirits per year.

A class 1 craft distiller licensee may hold more than one class 1 craft distiller's license. However, a class 1 craft distiller that holds more than one class 1 craft distiller license shall not manufacture, in the aggregate, more than 50,000 gallons of spirits by distillation per year and shall not sell, in the aggregate, more than 5,000 gallons of such spirits to non-licensees in accordance with an exemption approved by the State Commission pursuant to Section 6-4 of this Act.

Class 11. A class 2 craft distiller license, which may only be issued to a licensed craft distiller or licensed non-resident dealer, shall allow the manufacture of up to 100,000 gallons of spirits per year provided that the class 2 craft distiller licensee does not manufacture more than a combined 100,000 gallons of spirits per year and is not a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 100,000 gallons of spirits per year. If a class 2 craft distiller manufactures beer, it shall also obtain and shall only be eligible for, in addition to any current license, a class 2 brewer license, shall not manufacture more than 3,720,000 gallons of beer per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 3,720,000 gallons of beer per year. If a class 2 craft distiller manufactures wine, it shall also obtain and shall only be eligible for, in addition to any current license, a second-class wine-maker's license, shall not manufacture more than 150,000 gallons of wine per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 150,000 gallons of wine per year. A class 2 craft distiller licensee may make sales and deliveries to importing distributors and distributors, but shall not make sales or deliveries to any other licensee. If the State Commission provides prior approval, a class 2 craft distiller licensee may annually transfer up to 100,000 gallons of spirits manufactured by that class 2 craft distiller licensee to the premises of a licensed class 2 craft distiller wholly owned and operated by the same licensee. A class 2 craft distiller may transfer spirits to a distilling pub wholly owned and operated by the class 2 craft distiller subject to the following limitations and restrictions: (i) the transfer shall not annually exceed more than 5,000 gallons; (ii) the annual amount transferred shall reduce the distilling pub's annual permitted production limit; (iii) all spirits transferred shall be subject to Article VIII of this Act; (iv) a written record shall be maintained by the distiller and distilling pub specifying the amount, date of delivery, and receipt of the product by the distilling

pub; and (v) the distilling pub shall be located no farther than 80 miles from the class 2 craft distiller's licensed location.

A class 2 craft distiller shall, prior to transferring spirits to a distilling pub wholly owned by the class 2 craft distiller, furnish a written notice to the State Commission of intent to transfer spirits setting forth the name and address of the distilling pub and shall annually submit to the State Commission a verified report identifying the total gallons of spirits transferred to the distilling pub wholly owned by the class 2 craft distiller.

A class 2 craft distiller license holder may store such spirits at a non-contiguous licensed location, but at no time shall a class 2 craft distiller license holder directly or indirectly produce in the aggregate more than 100,000 gallons of spirits per year.

Class 12. A class 1 brewer license, which may only be issued to a licensed brewer or licensed non-resident dealer, shall allow the manufacture of up to 930,000 gallons of beer per year provided that the class 1 brewer licensee does not manufacture more than a combined 930,000 gallons of beer per year and is not a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 930,000 gallons of beer per year. If a class 1 brewer manufactures spirits, it shall also obtain and shall only be eligible for, in addition to any current license, a class 1 craft distiller license, shall not manufacture more than 50,000 gallons of spirits per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 50,000 gallons of spirits per year. If a class 1 craft brewer manufactures wine, it shall also obtain and shall only be eligible for, in addition to any current license, a first-class wine-manufacturer license or a first-class wine-maker's license, shall not manufacture more than 50,000 gallons of wine per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 50,000 gallons of wine per year. A class 1 brewer licensee may make sales and deliveries to importing distributors and distributors and to retail licensees in accordance with the conditions set forth in paragraph (18) of subsection (a) of Section 3-12 of this Act. If the State Commission provides prior approval, a class 1 brewer may annually transfer up to 930,000 gallons of beer manufactured by that class 1 brewer to the premises of a licensed class 1 brewer wholly owned and operated by the same licensee.

Class 13. A class 2 brewer license, which may only be issued to a licensed brewer or licensed non-resident dealer, shall allow the manufacture of up to 3,720,000 gallons of beer per year provided that the class 2 brewer licensee does not manufacture more than a combined 3,720,000 gallons of beer per year and is not a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 3,720,000 gallons of beer per year. If a class 2 brewer manufactures spirits, it shall also obtain and shall only be eligible for, in addition to any current license, a class 2 craft distiller license, shall not manufacture more than 100,000 gallons of spirits per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 100,000 gallons of spirits per year. If a class 2 craft distiller manufactures wine, it shall also obtain and shall only be eligible for, in addition to any current license, a second-class wine-maker's license, shall not manufacture more than 150,000 gallons of wine per year, and shall not be a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 150,000 gallons of wine a year. A class 2 brewer licensee may make sales and deliveries to importing distributors and distributors, but shall not make sales or deliveries to any other licensee. If the State Commission provides prior approval, a class 2 brewer licensee may annually transfer up to 3,720,000 gallons of beer manufactured by that class 2 brewer licensee to the premises of a licensed class 2 brewer wholly owned and operated by the same licensee.

A class 2 brewer may transfer beer to a brew pub wholly owned and operated by the class 2 brewer subject to the following limitations and restrictions: (i) the transfer shall not annually exceed more than 31,000 gallons; (ii) the annual amount transferred shall reduce the brew pub's annual permitted production limit; (iii) all beer transferred shall be subject to Article VIII of this Act; (iv) a written record shall be maintained by the brewer and brew pub specifying the amount, date of delivery, and receipt of the product by the brew pub; and (v) the brew pub shall be located no farther than 80 miles from the class 2 brewer's licensed location.

A class 2 brewer shall, prior to transferring beer to a brew pub wholly owned by the class 2 brewer, furnish a written notice to the State Commission of intent to transfer beer setting forth the name and address of the brew pub and shall annually submit to the State Commission a verified report identifying the total gallons of beer transferred to the brew pub wholly owned by the class 2 brewer.

Class 14. A class 3 brewer license, which may be issued to a brewer or a non-resident dealer, shall allow the manufacture of no more than 465,000 gallons of beer per year and no more than 155,000 gallons

at a single brewery premises, and shall allow the sale of no more than 6,200 gallons of beer from each in-state or out-of-state class 3 brewery premises, or 18,600 gallons in the aggregate, to retail licensees, class 1 brewers, class 2 brewers, and class 3 brewers as long as the class 3 brewer licensee does not manufacture more than a combined 465,000 gallons of beer per year and is not a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 465,000 gallons of beer per year to make sales to importing distributors, distributors, retail licensees, brewers, class 1 brewers, class 2 brewers, and class 3 brewer to the conditions set forth in paragraph (20) of subsection (a) of Section 3-12. If the State Commission provides prior approval, a class 3 brewer may annually transfer up to 155,000 gallons of beer manufacture beer at the brewer's class 3 brewer and operated by the same licensee. A class 3 brewer shall manufacture beer at the brewer's class 3 designated licensed premises, and may sell beer as otherwise provided in this Act.

(a-1) A manufacturer which is licensed in this State to make sales or deliveries of alcoholic liquor to licensed distributors or importing distributors and which enlists agents, representatives, or individuals acting on its behalf who contact licensed retailers on a regular and continual basis in this State must register those agents, representatives, or persons acting on its behalf with the State Commission.

Registration of agents, representatives, or persons acting on behalf of a manufacturer is fulfilled by submitting a form to the Commission. The form shall be developed by the Commission and shall include the name and address of the applicant, the name and address of the manufacturer he or she represents, the territory or areas assigned to sell to or discuss pricing terms of alcoholic liquor, and any other questions deemed appropriate and necessary. All statements in the forms required to be made by law or by rule shall be deemed material, and any person who knowingly misstates any material fact under oath in an application is guilty of a Class B misdemeanor. Fraud, misrepresentation, false statements, misleading statements, evasions, or suppression of material facts in the securing of a registration are grounds for suspension or revocation of the registration. The State Commission shall post a list of registered agents on the Commission's website.

(b) A distributor's license shall allow (i) the wholesale purchase and storage of alcoholic liquors and sale of alcoholic liquors to licensees in this State and to persons without the State, as may be permitted by law; (ii) the sale of beer, cider, mead, or any combination thereof to brewers, class 1 brewers, and class 2 brewers that, pursuant to subsection (e) of Section 6-4 of this Act, sell beer, cider, mead, or any combination thereof to non-licensees at their breweries; (iii) the sale of vermouth to class 1 craft distillers and class 2 craft distillers that, pursuant to subsection (e) of Section 6-4 of this Act, sell spirits, vermouth, or both spirits and vermouth to non-licensees at their distilleries; or (iv) as otherwise provided in this Act. No person licensed as a distributor shall be granted a non-resident dealer's license.

(c) An importing distributor's license may be issued to and held by those only who are duly licensed distributors, upon the filing of an application by a duly licensed distributor, with the Commission and the Commission shall, without the payment of any fee, immediately issue such importing distributor's license to the applicant, which shall allow the importation of alcoholic liquor by the licensee into this State from any point in the United States outside this State, and the purchase of alcoholic liquor in barrels, casks or other bulk containers and the bottling of such alcoholic liquors before resale thereof, but all bottles or containers so filled shall be sealed, labeled, stamped and otherwise made to comply with all provisions, rules and regulations governing manufacturers in the preparation and bottling of alcoholic liquor. The importing distributor's license shall permit such licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers and foreign importers only. No person licensed as an importing distributor shall be granted a non-resident dealer's license.

(d) A retailer's license shall allow the licensee to sell and offer for sale at retail, only in the premises specified in the license, alcoholic liquor for use or consumption, but not for resale in any form. Except as provided in Section 6-16, 6-29, or 6-29.1, nothing in this Act shall deny, limit, remove, or restrict the ability of a holder of a retailer's license to transfer or ship alcoholic liquor to the purchaser for use or consumption subject to any applicable local law or ordinance. For the purposes of this Section, "shipping" means the movement of alcoholic liquor from a licensed retailer to a consumer via a common carrier. Except as provided in Section 6-16, 6-29, or 6-29.1, nothing in this Act shall deny, limit, remove, or restrict the ability of a holder of a retailer's license to deliver alcoholic liquor to the purchaser for use or consumption. The delivery shall be made only within 12 hours from the time the alcoholic liquor leaves the licensed premises of the retailer for delivery. For the purposes of this Section, "delivery" means the movement of alcoholic liquor purchased from a licensed retailer to a consumer the following methods:

(1) delivery within licensed retailer's parking lot, including curbside, for pickup by the consumer;

(2) delivery by an owner, officer, director, shareholder, or employee of the licensed retailer; or

(3) delivery by a third-party contractor, independent contractor, or agent with whom the licensed retailer has contracted to make deliveries of alcoholic liquors.

Under subsection (1), (2), or (3), delivery shall not include the use of common carriers.

Any retail license issued to a manufacturer shall only permit the manufacturer to sell beer at retail on the premises actually occupied by the manufacturer. For the purpose of further describing the type of business conducted at a retail licensed premises, a retailer's licensee may be designated by the State Commission as (i) an on premise consumption retailer, (ii) an off premise sale retailer, or (iii) a combined on premise consumption and off premise sale retailer.

Except for a municipality with a population of more than 1,000,000 inhabitants, a home rule unit may not regulate the delivery of alcoholic liquor inconsistent with this subsection. This paragraph is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State. <u>A non-home rule municipality may not</u> regulate the delivery of alcoholic liquor inconsistent with this subsection.

Notwithstanding any other provision of this subsection (d), a retail licensee may sell alcoholic liquors to a special event retailer licensee for resale to the extent permitted under subsection (e).

(e) A special event retailer's license (not-for-profit) shall permit the licensee to purchase alcoholic liquors from an Illinois licensed distributor (unless the licensee purchases less than \$500 of alcoholic liquors for the special event, in which case the licensee may purchase the alcoholic liquors from a licensed retailer) and shall allow the licensee to sell and offer for sale, at retail, alcoholic liquors for use or consumption, but not for resale in any form and only at the location and on the specific dates designated for the special event in the license. An applicant for a special event retailer license must (i) furnish with the application: (A) a resale number issued under Section 2c of the Retailers' Occupation Tax Act or evidence that the applicant is registered under Section 2a of the Retailers' Occupation Tax Act, (B) a current, valid exemption identification number issued under Section 1g of the Retailers' Occupation Tax Act, and a certification to the Commission that the purchase of alcoholic liquors will be a tax-exempt purchase, or (C) a statement that the applicant is not registered under Section 2a of the Retailers' Occupation Tax Act, does not hold a resale number under Section 2c of the Retailers' Occupation Tax Act, and does not hold an exemption number under Section 1g of the Retailers' Occupation Tax Act, in which event the Commission shall set forth on the special event retailer's license a statement to that effect; (ii) submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance in the maximum limits; and (iii) show proof satisfactory to the State Commission that the applicant has obtained local authority approval.

Nothing in this Act prohibits an Illinois licensed distributor from offering credit or a refund for unused, salable alcoholic liquors to a holder of a special event retailer's license or the special event retailer's licensee from accepting the credit or refund of alcoholic liquors at the conclusion of the event specified in the license.

(f) A railroad license shall permit the licensee to import alcoholic liquors into this State from any point in the United States outside this State and to store such alcoholic liquors in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be exercised only in connection with the importation, purchase or storage of alcoholic liquors to be sold or dispensed on a club, buffet, lounge or dining car operated on an electric, gas or steam railway in this State; and provided further, that railroad licensees exercising the above powers shall be subject to all provisions of Article VIII of this Act as applied to importing distributors. A railroad license shall also permit the license to sell or dispense alcoholic liquors on any club, buffet, lounge or dining car operated on an electric, gas or steam railway regularly operated by a common carrier in this State. A license shall be obtained for each car in which such sales are made.

(g) A boat license shall allow the sale of alcoholic liquor in individual drinks, on any passenger boat regularly operated as a common carrier on navigable waters in this State or on any riverboat operated under the Illinois Gambling Act, which boat or riverboat maintains a public dining room or restaurant thereon.

(h) A non-beverage user's license shall allow the licensee to purchase alcoholic liquor from a licensed manufacturer or importing distributor, without the imposition of any tax upon the business of such licensed

manufacturer or importing distributor as to such alcoholic liquor to be used by such licensee solely for the non-beverage purposes set forth in subsection (a) of Section 8-1 of this Act, and such licenses shall be divided and classified and shall permit the purchase, possession and use of limited and stated quantities of alcoholic liquor as follows:

Class 1, not to exceed	500 gallons
Class 2, not to exceed	. 1,000 gallons
Class 3, not to exceed	
Class 4, not to exceed	
Class 5, not to exceed	

(i) A wine-maker's premises license shall allow a licensee that concurrently holds a first-class wine-maker's license to sell and offer for sale at retail in the premises specified in such license not more than 50,000 gallons of the first-class wine-maker's wine that is made at the first-class wine-maker's licensed premises per year for use or consumption, but not for resale in any form. A wine-maker's premises license shall allow a licensee who concurrently holds a second-class wine-maker's license to sell and offer for sale at retail in the premises specified in such license up to 100,000 gallons of the second-class wine-maker's wine that is made at the second-class wine-maker's licensed premises per year for use or consumption but not for resale in any form. A first-class wine-maker that concurrently holds a class 1 brewer license or a class 1 craft distiller license shall not be eligible to hold a wine-maker's premises license. A wine-maker's premises license shall allow a licensee that concurrently holds a first-class wine-maker's license or a second-class wine-maker's license to sell and offer for sale at retail at the premises specified in the wine-maker's premises license, for use or consumption but not for resale in any form, any beer, wine, and spirits purchased from a licensed distributor. Upon approval from the State Commission, a wine-maker's premises license shall allow the licensee to sell and offer for sale at (i) the wine-maker's licensed premises and (ii) at up to 2 additional locations for use and consumption and not for resale. Each location shall require additional licensing per location as specified in Section 5-3 of this Act. A wine-maker's premises licensee shall secure liquor liability insurance coverage in an amount at least equal to the maximum liability amounts set forth in subsection (a) of Section 6-21 of this Act.

(j) An airplane license shall permit the licensee to import alcoholic liquors into this State from any point in the United States outside this State and to store such alcoholic liquors in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be exercised only in connection with the importation, purchase or storage of alcoholic liquors to be sold or dispensed on an airplane; and provided further, that airplane licensees exercising the above powers shall be subject to all provisions of Article VIII of this Act as applied to importing distributors. An airplane licensee shall also permit the sale or dispensing of alcoholic liquors on any passenger airplane regularly operated by a common carrier in this State, but shall not permit the sale for resale of any alcoholic liquor service is provided on board aircraft in this State. The annual fee for such license shall be as determined in Section 5-3.

(k) A foreign importer's license shall permit such licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers only, and to import alcoholic liquor other than in bulk from any point outside the United States and to sell such alcoholic liquor to Illinois licensed importing distributors and to no one else in Illinois; provided that (i) the foreign importer registers with the State Commission every brand of alcoholic liquor that it proposes to sell to Illinois licensees during the license period, (ii) the foreign importer complies with all of the provisions of Section 6-9 of this Act with respect to registration of such Illinois licensees as may be granted the right to sell such brands at wholesale, and (iii) the foreign importer complies with the provisions of Sections 6-5 and 6-6 of this Act to the same extent that these provisions apply to manufacturers.

(l) (i) A broker's license shall be required of all persons who solicit orders for, offer to sell or offer to supply alcoholic liquor to retailers in the State of Illinois, or who offer to retailers to ship or cause to be shipped or to make contact with distillers, craft distillers, rectifiers, brewers or manufacturers or any other party within or without the State of Illinois in order that alcoholic liquors be shipped to a distributor, importing distributor or foreign importer, whether such solicitation or offer is consummated within or without the State of Illinois.

No holder of a retailer's license issued by the Illinois Liquor Control Commission shall purchase or receive any alcoholic liquor, the order for which was solicited or offered for sale to such retailer by a broker unless the broker is the holder of a valid broker's license.

The broker shall, upon the acceptance by a retailer of the broker's solicitation of an order or offer to sell or supply or deliver or have delivered alcoholic liquors, promptly forward to the Illinois Liquor Control Commission a notification of said transaction in such form as the Commission may by regulations prescribe.

(ii) A broker's license shall be required of a person within this State, other than a retail licensee, who, for a fee or commission, promotes, solicits, or accepts orders for alcoholic liquor, for use or consumption and not for resale, to be shipped from this State and delivered to residents outside of this State by an express company, common carrier, or contract carrier. This Section does not apply to any person who promotes, solicits, or accepts orders for wine as specifically authorized in Section 6-29 of this Act.

A broker's license under this subsection (l) shall not entitle the holder to buy or sell any alcoholic liquors for his own account or to take or deliver title to such alcoholic liquors.

This subsection (l) shall not apply to distributors, employees of distributors, or employees of a manufacturer who has registered the trademark, brand or name of the alcoholic liquor pursuant to Section 6-9 of this Act, and who regularly sells such alcoholic liquor in the State of Illinois only to its registrants thereunder.

Any agent, representative, or person subject to registration pursuant to subsection (a-1) of this Section shall not be eligible to receive a broker's license.

(m) A non-resident dealer's license shall permit such licensee to ship into and warehouse alcoholic liquor into this State from any point outside of this State, and to sell such alcoholic liquor to Illinois licensed foreign importers and importing distributors and to no one else in this State; provided that (i) said non-resident dealer shall register with the Illinois Liquor Control Commission each and every brand of alcoholic liquor which it proposes to sell to Illinois licensees during the license period, (ii) it shall comply with all of the provisions of Section 6-9 hereof with respect to registration of such Illinois licensees as may be granted the right to sell such brands at wholesale by duly filing such registration statement, thereby authorizing the non-resident dealer to proceed to sell such brands at wholesale, and (iii) the non-resident dealer shall comply with the provisions of Sections 6-5 and 6-6 of this Act to the same extent that these provisions apply to manufacturers. No person licensed as a non-resident dealer shall be granted a distributor's or importing distributor's license.

(n) A brew pub license shall allow the licensee to only (i) manufacture up to 155,000 gallons of beer per year only on the premises specified in the license, (ii) make sales of the beer manufactured on the premises or, with the approval of the Commission, beer manufactured on another brew pub licensed premises that is wholly owned and operated by the same licensee to importing distributors, distributors, and to non-licensees for use and consumption, (iii) store the beer upon the premises, (iv) sell and offer for sale at retail from the licensed premises for off-premises consumption no more than 155,000 gallons per year so long as such sales are only made in-person, (v) sell and offer for sale at retail for use and consumption of the premises specified in the license any form of alcoholic liquor purchased from a licensed distributor or importing distributor, (vi) with the prior approval of the Commission, annually transfer no more than 155,000 gallons of beer manufactured on the premises to a licensed brew pub wholly owned and operated by the same licensee, and (vii) notwithstanding item (i) of this subsection, brew pubs wholly owned and operated by the same licensee may combine each location's production limit of 155,000 gallons of beer per year and allocate the aggregate total between the wholly owned, and licensed locations.

A brew pub licensee shall not under any circumstance sell or offer for sale beer manufactured by the brew pub licensee to retail licensees.

A person who holds a class 2 brewer license may simultaneously hold a brew pub license if the class 2 brewer (i) does not, under any circumstance, sell or offer for sale beer manufactured by the class 2 brewer to retail licensees; (ii) does not hold more than 3 brew pub licenses in this State; (iii) does not manufacture more than a combined 3,720,000 gallons of beer per year, including the beer manufactured at the brew pub; and (iv) is not a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 3,720,000 gallons of beer per year or any other alcoholic liquor.

Notwithstanding any other provision of this Act, a licensed brewer, class 2 brewer, or non-resident dealer who before July 1, 2015 manufactured less than 3,720,000 gallons of beer per year and held a brew pub license on or before July 1, 2015 may (i) continue to qualify for and hold that brew pub license for the licensed premises and (ii) manufacture more than 3,720,000 gallons of beer per year and continue to qualify for and hold that brew pub license if that brewer, class 2 brewer, or non-resident dealer does not

simultaneously hold a class 1 brewer license and is not a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 3,720,000 gallons of beer per year or that produces any other alcoholic liquor.

A brew pub licensee may apply for a class 3 brewer license and, upon: (i) meeting all applicable qualifications of this Act, and relinquishing all commonly owned brew pub or retail licenses, shall be issued a class 3 brewer license. Nothing in this Act shall prohibit the issuance of a class 3 brewer license if the applicant:

(1) has a valid retail license on or before May 1, 2021;

(2) has an ownership interest in at least two brew pubs licenses on or before May 1, 2021;

(3) the brew pub licensee applies for a class 3 brewer license on or before October 1, 2022 and relinquishes all commonly owned brew pub licenses; and

(4) relinquishes all commonly owned retail licenses on or before December 31, 2022.

If a brew pub licensee is issued a class 3 brewer license, the class 3 brewer license shall expire on the same date as the existing brew pub license and the State Commission shall not require a class 3 brewer license to obtain a brewer license, or in the alternative to pay a fee for a brewer license, until the date the brew pub license of the applicant would have expired.

(o) A caterer retailer license shall allow the holder to serve alcoholic liquors as an incidental part of a food service that serves prepared meals which excludes the serving of snacks as the primary meal, either on or off-site whether licensed or unlicensed. A caterer retailer license shall allow the holder, a distributor, or an importing distributor to transfer any inventory to and from the holder's retail premises and shall allow the holder to purchase alcoholic liquor from a distributor or importing distributor to be delivered directly to an off-site event.

Nothing in this Act prohibits a distributor or importing distributor from offering credit or a refund for unused, salable beer to a holder of a caterer retailer license or a caterer retailer licensee from accepting a credit or refund for unused, salable beer, in the event an act of God is the sole reason an off-site event is cancelled and if: (i) the holder of a caterer retailer license has not transferred alcoholic liquor from its caterer retailer premises to an off-site location; (ii) the distributor or importing distributor offers the credit or refund for the unused, salable beer that it delivered to the off-site premises and not for any unused, salable beer that the distributor or importing distributor delivered to the caterer retailer's premises; and (iii) the unused, salable beer would likely spoil if transferred to the caterer retailer's premises; and (iii) the unused, salable beer would likely spoil if transferred to the caterer retailer's premises. A caterer retailer premises at the conclusion of an off-site event or engage a distributor or importing distributor to transfer any inventory from any off-site location to its caterer retailer premises at the conclusion of an off-site event, provided that the distributor or importing distributor issues bona fide charges to the caterer retailer licensee for fuel, labor, and delivery and the distributor or importing distributor collects payment from the caterer retailer licensee prior to the distributor or importing distributor transferring inventory to the caterer retailer premises.

For purposes of this subsection (o), an "act of God" means an unforeseeable event, such as a rain or snow storm, hail, a flood, or a similar event, that is the sole cause of the cancellation of an off-site, outdoor event.

(p) An auction liquor license shall allow the licensee to sell and offer for sale at auction wine and spirits for use or consumption, or for resale by an Illinois liquor licensee in accordance with provisions of this Act. An auction liquor license will be issued to a person and it will permit the auction liquor licensee to hold the auction anywhere in the State. An auction liquor license must be obtained for each auction at least 14 days in advance of the auction date.

(q) A special use permit license shall allow an Illinois licensed retailer to transfer a portion of its alcoholic liquor inventory from its retail licensed premises to the premises specified in the license hereby created; to purchase alcoholic liquor from a distributor or importing distributor to be delivered directly to the location specified in the license hereby created; and to sell or offer for sale at retail, only in the premises specified in the license hereby created; and to sell or offer for sale at retail, only in the premises specified in the license hereby created; the transferred or delivered alcoholic liquor for use or consumption, but not for resale in any form. A special use permit license may be granted for the following time periods: one day or less; 2 or more days to a maximum of 15 days per location in any 12-month period. An applicant for the special use permit license must also submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance to the maximum limits and have local authority approval.

A special use permit license shall allow the holder to transfer any inventory from the holder's special use premises to its retail premises at the conclusion of the special use event or engage a distributor or importing distributor to transfer any inventory from the holder's special use premises to its retail premises at the conclusion of an off-site event, provided that the distributor or importing distributor issues bona fide charges to the special use permit licensee for fuel, labor, and delivery and the distributor or importing distributor transferring inventory to the retail premises.

Nothing in this Act prohibits a distributor or importing distributor from offering credit or a refund for unused, salable beer to a special use permit licensee or a special use permit licensee from accepting a credit or refund for unused, salable beer at the conclusion of the event specified in the license if: (i) the holder of the special use permit license has not transferred alcoholic liquor from its retail licensed premises to the premises specified in the special use permit license; (ii) the distributor or importing distributor offers the credit or refund for the unused, salable beer that it delivered to the premises specified in the special use permit license and not for any unused, salable beer that the distributor or importing distributor delivered to the retailer's premises; and (iii) the unused, salable beer would likely spoil if transferred to the retailer premises.

(r) A winery shipper's license shall allow a person with a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license or who is licensed to make wine under the laws of another state to ship wine made by that licensee directly to a resident of this State who is 21 years of age or older for that resident's personal use and not for resale. Prior to receiving a winery shipper's license, an applicant for the license must provide the Commission with a true copy of its current license in any state in which it is licensed as a manufacturer of wine. An applicant for a winery shipper's license must also complete an application form that provides any other information the Commission deems necessary. The application form shall include all addresses from which the applicant for a winery shipper's license intends to ship wine, including the name and address of any third party, except for a common carrier, authorized to ship wine on behalf of the manufacturer. The application form shall include an acknowledgement consenting to the jurisdiction of the Commission, the Illinois Department of Revenue, and the courts of this State concerning the enforcement of this Act and any related laws, rules, and regulations, including authorizing the Department of Revenue and the Commission to conduct audits for the purpose of ensuring compliance with Public Act 95-634, and an acknowledgement that the wine manufacturer is in compliance with Section 6-2 of this Act. Any third party, except for a common carrier, authorized to ship wine on behalf of a first-class or second-class wine manufacturer's licensee, a first-class or second-class wine-maker's licensee, a limited wine manufacturer's licensee, or a person who is licensed to make wine under the laws of another state shall also be disclosed by the winery shipper's licensee, and a copy of the written appointment of the third-party wine provider, except for a common carrier, to the wine manufacturer shall be filed with the State Commission as a supplement to the winery shipper's license application or any renewal thereof. The winery shipper's license holder shall affirm under penalty of perjury, as part of the winery shipper's license application or renewal, that he or she only ships wine, either directly or indirectly through a third-party provider, from the licensee's own production.

Except for a common carrier, a third-party provider shipping wine on behalf of a winery shipper's license holder is the agent of the winery shipper's license holder and, as such, a winery shipper's license holder is responsible for the acts and omissions of the third-party provider acting on behalf of the license holder. A third-party provider, except for a common carrier, that engages in shipping wine into Illinois on behalf of a winery shipper's license holder shall consent to the jurisdiction of the State Commission and the State. Any third-party, except for a common carrier, holding such an appointment shall, by February 1 of each calendar year and upon request by the State Commission or the Department of Revenue, file with the State Commission a statement detailing each shipment made to an Illinois resident. The statement shall include the name and address of the third-party provider filing the statement, the time period covered by the statement, and the following information:

(1) the name, address, and license number of the winery shipper on whose behalf the shipment was made;

(2) the quantity of the products delivered; and

(3) the date and address of the shipment.

If the Department of Revenue or the State Commission requests a statement under this paragraph, the third-party provider must provide that statement no later than 30 days after the request is made. Any books, records, supporting papers, and documents containing information and data relating to a statement under this

paragraph shall be kept and preserved for a period of 3 years, unless their destruction sooner is authorized, in writing, by the Director of Revenue, and shall be open and available to inspection by the Director of Revenue or the State Commission or any duly authorized officer, agent, or employee of the State Commission or the Department of Revenue, at all times during business hours of the day. Any person who violates any provision of this paragraph or any rule of the State Commission for the administration and enforcement of the provisions of this paragraph is guilty of a Class C misdemeanor. In case of a continuing violation, each day's continuance thereof shall be a separate and distinct offense.

The State Commission shall adopt rules as soon as practicable to implement the requirements of Public Act 99-904 and shall adopt rules prohibiting any such third-party appointment of a third-party provider, except for a common carrier, that has been deemed by the State Commission to have violated the provisions of this Act with regard to any winery shipper licensee.

A winery shipper licensee must pay to the Department of Revenue the State liquor gallonage tax under Section 8-1 for all wine that is sold by the licensee and shipped to a person in this State. For the purposes of Section 8-1, a winery shipper licensee shall be taxed in the same manner as a manufacturer of wine. A licensee who is not otherwise required to register under the Retailers' Occupation Tax Act must register under the Use Tax Act to collect and remit use tax to the Department of Revenue for all gallons of wine that are sold by the licensee and shipped to persons in this State. If a licensee fails to remit the tax imposed under this Act in accordance with the provisions of Article VII of this Act. If a licensee fails to properly register and remit tax under the Use Tax Act or the Retailers' Occupation Tax Act for all wine that is sold by the winery shipper and shipped to persons in this State, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of this Act. If a licensee fails to properly register and remit tax under the Use Tax Act or the Retailers' Occupation Tax Act for all wine that is sold by the winery shipper and shipped to persons in this State, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of this Act.

A winery shipper licensee must collect, maintain, and submit to the Commission on a semi-annual basis the total number of cases per resident of wine shipped to residents of this State. A winery shipper licensed under this subsection (r) must comply with the requirements of Section 6-29 of this Act.

Pursuant to paragraph (5.1) or (5.3) of subsection (a) of Section 3-12, the State Commission may receive, respond to, and investigate any complaint and impose any of the remedies specified in paragraph (1) of subsection (a) of Section 3-12.

As used in this subsection, "third-party provider" means any entity that provides fulfillment house services, including warehousing, packaging, distribution, order processing, or shipment of wine, but not the sale of wine, on behalf of a licensed winery shipper.

(s) A craft distiller tasting permit license shall allow an Illinois licensed class 1 craft distiller or class 2 craft distiller to transfer a portion of its alcoholic liquor inventory from its class 1 craft distiller or class 2 craft distiller licensed premises to the premises specified in the license hereby created and to conduct a sampling, only in the premises specified in the license hereby created, of the transferred alcoholic liquor in accordance with subsection (c) of Section 6-31 of this Act. The transferred alcoholic liquor may not be sold or resold in any form. An applicant for the craft distiller tasting permit license must also submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance to the maximum limits and have local authority approval.

(t) A brewer warehouse permit may be issued to the holder of a class 1 brewer license or a class 2 brewer license. If the holder of the permit is a class 1 brewer licensee, the brewer warehouse permit shall allow the holder to store or warehouse up to 930,000 gallons of tax-determined beer manufactured by the holder of the permit at the premises specified on the permit. If the holder of the permit is a class 2 brewer licensee, the brewer warehouse permit shall allow the holder to store or warehouse permit shall allow the holder to store or warehouse up to 3,720,000 gallons of tax-determined beer manufactured by the holder of the permit at the premises specified on the permit. Sales to non-licensees are prohibited at the premises specified in the brewer warehouse permit.

(u) A distilling pub license shall allow the licensee to only (i) manufacture up to 5,000 gallons of spirits per year only on the premises specified in the license, (ii) make sales of the spirits manufactured on the premises or, with the approval of the State Commission, spirits manufactured on another distilling pub licensed premises that is wholly owned and operated by the same licensee to importing distributors and distributors and to non-licensees for use and consumption, (iii) store the spirits upon the premises, (iv) sell and offer for sale at retail from the licensed premises for off-premises consumption no more than 5,000 gallons per year so long as such sales are only made in-person, (v) sell and offer for sale at retail for use and consumption on the premises specified in the license any form of alcoholic liquor purchased from a licensed distributor or importing distributor, and (vi) with the prior approval of the State Commission, annually

transfer no more than 5,000 gallons of spirits manufactured on the premises to a licensed distilling pub wholly owned and operated by the same licensee.

A distilling pub licensee shall not under any circumstance sell or offer for sale spirits manufactured by the distilling pub licensee to retail licensees.

A person who holds a class 2 craft distiller license may simultaneously hold a distilling pub license if the class 2 craft distiller (i) does not, under any circumstance, sell or offer for sale spirits manufactured by the class 2 craft distiller to retail licensees; (ii) does not hold more than 3 distilling pub licenses in this State; (iii) does not manufacture more than a combined 100,000 gallons of spirits per year, including the spirits manufactured at the distilling pub; and (iv) is not a member of or affiliated with, directly or indirectly, a manufacturer that produces more than 100,000 gallons of spirits per year or any other alcoholic liquor.

(v) A craft distiller warehouse permit may be issued to the holder of a class 1 craft distiller or class 2 craft distiller license. The craft distiller warehouse permit shall allow the holder to store or warehouse up to 500,000 gallons of spirits manufactured by the holder of the permit at the premises specified on the permit. Sales to non-licensees are prohibited at the premises specified in the craft distiller warehouse permit.

(w) A beer showcase permit license shall allow an Illinois-licensed distributor to transfer a portion of its beer inventory from its licensed premises to the premises specified in the beer showcase permit license, and, in the case of a class 3 brewer, transfer only beer the class 3 brewer manufactures from its licensed premises to the premises specified in the beer showcase permit license; and to sell or offer for sale at retail, only in the premises specified in the beer showcase permit license; and to sell or offer for sale at retail, only in the premises specified in the beer showcase permit license; the transferred or delivered beer for on or off premise consumption, but not for resale in any form and to sell to non-licensees not more than 96 fluid ounces of beer per person. A beer showcase permit license may be granted for the following time periods: one day or less; or 2 or more days to a maximum of 15 days per location in any 12-month period. An applicant for a beer showcase permit license must also submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance to the maximum limits and have local authority approval. The State Commission shall require the beer showcase applicant to comply with Section 6-27.1.

(Source: P.A. 101-16, eff. 6-14-19; 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-482, eff. 8-23-19; 101-517, eff. 8-23-19; 101-615, eff. 12-20-19; 101-668, eff. 1-1-22; 102-442, eff. 8-20-21; revised 2-28-22.)"; and

on page 6, lines 11 and 12, by replacing "August 1, 2022" with "upon becoming law".

Under the rules, the foregoing **Senate Bill No. 1001**, with House Amendment No. 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Hollman, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL NO. 9

A bill for AN ACT concerning health. Which amendment is as follows: Senate Amendment No. 1 to HOUSE BILL NO. 9 Concurred in by the House, January 6, 2023.

JOHN W. HOLLMAN, Clerk of the House

At the hour of 11:30 o'clock a.m., the Chair announced that the Senate stands at ease.

AT EASE

At the hour of 12:20 o'clock p.m., the Senate resumed consideration of business. Senator Koehler, presiding.

ANNOUNCEMENT

Senator Sims announced the Senate Appropriations Committee will have a Subject Matter Hearing on the Supplemental Budget on Sunday, January 8, 2023 at 3:30 o'clock p.m. in room 212.

RESOLUTIONS CONSENT CALENDAR

SENATE RESOLUTION NO. 1282

Offered by Senator Anderson and all Senators: Mourns the death of Howard Willis of East Moline.

SENATE RESOLUTION NO. 1283

Offered by Senator Anderson and all Senators: Mourns the death of Thomas Webb Jr. of Silvis.

SENATE RESOLUTION NO. 1284

Offered by Senator Anderson and all Senators: Mourns the death of Roger Nevins of Silvis.

SENATE RESOLUTION NO. 1285

Offered by Senator Anderson and all Senators: Mourns the passing of Fred Lue of Carbon Cliff.

SENATE RESOLUTION NO. 1286

Offered by Senator Anderson and all Senators: Mourns the death of Paul Johnson of Rock Island.

SENATE RESOLUTION NO. 1287

Offered by Senator Anderson and all Senators: Mourns the death of David Griffin of Milan.

SENATE RESOLUTION NO. 1288

Offered by Senator Anderson and all Senators: Mourns the death of Kenneth E. "Ken" Frels of Coal Valley.

SENATE RESOLUTION NO. 1289

Offered by Senator Anderson and all Senators: Mourns the death of Henry Vincent Burns III.

SENATE RESOLUTION NO. 1290

Offered by Senator Bailey and all Senators: Mourns the death of Steven Bela Szigethy, M.D. of Oblong.

SENATE RESOLUTION NO. 1291

Offered by Senator Koehler and all Senators: Mourns the passing of David Ernest "Dave" Higgins of Peoria.

SENATE RESOLUTION NO. 1292

Offered by Senators Feigenholtz - Morrison and all Senators: Mourns the passing of Frieda "Fritzie" (Weiss) Fritzshall.

SENATE RESOLUTION NO. 1345

Offered by Senator Murphy and all Senators: Mourns the death of Dorothy Sherman of Park Ridge.

SENATE RESOLUTION NO. 1346

Offered by Senator Murphy and all Senators: Mourns the death of Thelma Spain of Des Plaines.

SENATE RESOLUTION NO. 1347

Offered by Senator Murphy and all Senators: Mourns the death of Frank Kozak of Schaumburg.

SENATE RESOLUTION NO. 1348

Offered by Senator Van Pelt and all Senators: Mourns the death of Ronald Cornell Wiley.

SENATE RESOLUTION NO. 1349

Offered by Senator Anderson and all Senators: Mourns the death of Donald L. "Don" Ague Jr. of Silvis.

SENATE RESOLUTION NO. 1350

Offered by Senator Anderson and all Senators: Mourns the death of Bobby Cravens of Rock Island.

SENATE RESOLUTION NO. 1351

Offered by Senator Anderson and all Senators: Mourns the passing of William Lee Deadmond Sr. of Moline.

SENATE RESOLUTION NO. 1352

Offered by Senator Anderson and all Senators: Mourns the death of Patrick Hicks of Moline.

SENATE RESOLUTION NO. 1353

Offered by Senator Koehler and all Senators: Mourns the death of Richard Victor Welton.

SENATE RESOLUTION NO. 1354

Offered by Senator Koehler and all Senators: Mourns the death of Alfred W. Burnett Jr. of Peoria.

SENATE RESOLUTION NO. 1355

Offered by Senator Anderson and all Senators: Mourns the death of Alfred Oscar "Al" Sharp of Moline.

SENATE RESOLUTION NO. 1356

Offered by Senator Anderson and all Senators: Mourns the death of Eugene Klell "Gene" Rogers of Moline.

SENATE RESOLUTION NO. 1357

Offered by Senator Anderson and all Senators: Mourns the death of Joseph M. "Joe" Vinzant of East Moline.

SENATE RESOLUTION NO. 1358

Offered by Senator McClure and all Senators: Mourns the death of Fred Hickman.

SENATE RESOLUTION NO. 1359

Offered by Senator McClure and all Senators: Mourns the death of Richard G. Austin of Aurora.

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SENATE RESOLUTION NO. 1360

Offered by Senator McClure and all Senators: Mourns the death of David P. Bartolazzi of King, Wisconsin.

SENATE RESOLUTION NO. 1361

Offered by Senator McClure and all Senators: Mourns the death of Dennis Ray Whetstone of Carmi.

SENATE RESOLUTION NO. 1362

Offered by Senator D. Turner and all Senators: Mourns the death of Maureen Macy Lober.

SENATE RESOLUTION NO. 1363

Offered by Senator D. Turner and all Senators: Mourns the death of Rosemary Nash.

SENATE RESOLUTION NO. 1364

Offered by Senator Anderson and all Senators: Mourns the passing of Daniel H. "Dan" Krotz of Coal Valley.

SENATE RESOLUTION NO. 1365

Offered by Senator Anderson and all Senators: Mourns the death of Donald Means of Milan.

SENATE RESOLUTION NO. 1366

Offered by Senator Anderson and all Senators: Mourns the death of James Youngblood of East Moline.

SENATE RESOLUTION NO. 1367

Offered by Senator Koehler and all Senators: Mourns the passing of Adam Sloan of Edwards.

SENATE RESOLUTION NO. 1368

Offered by Senator Castro and all Senators: Mourns the passing of radio and TV personality Floyd A. Brown of Elgin.

SENATE RESOLUTION NO. 1369

Offered by Senator Collins and all Senators: Mourns the passing of Mayor Kevin M. Casey of Hometown.

SENATE RESOLUTION NO. 1371

Offered by Senator McClure and all Senators: Mourns the death of Robert Wayne "Bob" Dahman.

SENATE RESOLUTION NO. 1372

Offered by Senator McClure and all Senators: Mourns the death of John P. Ridder of New Berlin.

SENATE RESOLUTION NO. 1373

Offered by Senator McClure and all Senators: Mourns the death of John Wilkey.

SENATE RESOLUTION NO. 1374

Offered by Senator Koehler and all Senators: Mourns the death of Ameline M. "Emily" Rashid LaHood of Peoria.

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SENATE RESOLUTION NO. 1375

Offered by Senator Koehler and all Senators: Mourns the death of Judy Oakford of Peoria.

SENATE RESOLUTION NO. 1376

Offered by Senator Morrison and all Senators: Mourns the death of Milburn David Cain Sr. of Lake Forest.

SENATE RESOLUTION NO. 1379

Offered by Senator McClure and all Senators: Mourns the death of June Dallas Peden-Stade of Auburn.

SENATE RESOLUTION NO. 1380

Offered by Senator McClure and all Senators: Mourns the death of Thurman Edward Stewart of Woodson.

The Chair moved the adoption of the Resolutions Consent Calendar. The motion prevailed, and the resolutions were adopted.

At the hour of 12:22 o'clock p.m., the Chair announced that the Senate stands adjourned until Sunday, January 8, 2023, at 5:00 o'clock p.m.