

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Regulatory Sunset Act is amended by changing
5 Section 4.30 and by adding Section 4.40 as follows:

6 (5 ILCS 80/4.30)

7 Sec. 4.30. Acts repealed on January 1, 2020. The following
8 Acts are repealed on January 1, 2020:

9 The Auction License Act.

10 The Community Association Manager Licensing and
11 Disciplinary Act.

12 The Illinois Architecture Practice Act of 1989.

13 The Illinois Landscape Architecture Act of 1989.

14 The Illinois Professional Land Surveyor Act of 1989.

15 The Orthotics, Prosthetics, and Pedorthics Practice Act.

16 The Perfusionist Practice Act.

17 ~~The Pharmacy Practice Act.~~

18 The Professional Engineering Practice Act of 1989.

19 The Real Estate License Act of 2000.

20 The Structural Engineering Practice Act of 1989.

21 (Source: P.A. 100-497, eff. 9-8-17; 100-534, eff. 9-22-17;
22 100-863, eff. 8-14-18.)

1 (5 ILCS 80/4.40 new)

2 Sec. 4.40. Act repealed on January 1, 2030. The following

3 Act is repealed on January 1, 2030:

4 The Pharmacy Practice Act.

5 Section 10. The Pharmacy Practice Act is amended by
6 changing Sections 30, 33, 35.3, 35.5, 35.9, 35.10 and 35.21 as
7 follows:

8 (225 ILCS 85/30) (from Ch. 111, par. 4150)

9 (Section scheduled to be repealed on January 1, 2020)

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

12 (a) The Department may refuse to issue or renew, or may
13 revoke a license, or may suspend, place on probation, fine, or
14 take any disciplinary or non-disciplinary action as the
15 Department may deem proper, including fines not to exceed
16 \$10,000 for each violation, with regard to any licensee for any
17 one or combination of the following causes:

18 1. Material misstatement in furnishing information to
19 the Department.

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

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

24 4. A pattern of conduct which demonstrates

1 incompetence or unfitness to practice.

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

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

6 7. Engaging in unprofessional, dishonorable, or
7 unethical conduct of a character likely to deceive, defraud
8 or harm the public.

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

17 9. Directly or indirectly giving to or receiving from
18 any person, firm, corporation, partnership, or association
19 any fee, commission, rebate or other form of compensation
20 for any professional services not actually or personally
21 rendered. Nothing in this item 9 affects any bona fide
22 independent contractor or employment arrangements among
23 health care professionals, health facilities, health care
24 providers, or other entities, except as otherwise
25 prohibited by law. Any employment arrangements may include
26 provisions for compensation, health insurance, pension, or

1 other employment benefits for the provision of services
2 within the scope of the licensee's practice under this Act.
3 Nothing in this item 9 shall be construed to require an
4 employment arrangement to receive professional fees for
5 services rendered.

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

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

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

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

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

26 15. Habitual or excessive use or addiction to alcohol,

1 narcotics, stimulants or any other chemical agent or drug
2 which results in the inability to practice with reasonable
3 judgment, skill or safety.

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

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

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

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

24 20. Physical or mental illness or any other impairment
25 or disability, including, without limitation: (A)
26 deterioration through the aging process or loss of motor

1 skills that results in the inability to practice with
2 reasonable judgment, skill or safety; or (B) mental
3 incompetence, as declared by a court of competent
4 jurisdiction.

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

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

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

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

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

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

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

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

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

22 (c) The Department shall revoke any license issued under
23 the provisions of this Act or any prior Act of this State of
24 any person who has been convicted a second time of committing
25 any felony under the Illinois Controlled Substances Act, or who
26 has been convicted a second time of committing a Class 1 felony

1 under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A
2 person whose license issued under the provisions of this Act or
3 any prior Act of this State is revoked under this subsection
4 (c) shall be prohibited from engaging in the practice of
5 pharmacy in this State.

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

13 (e) The entry of an order or judgment by any circuit court
14 establishing that any person holding a license or certificate
15 under this Act is a person in need of mental treatment operates
16 as a suspension of that license. A licensee may resume his or
17 her practice only upon the entry of an order of the Department
18 based upon a finding by the Board that he or she has been
19 determined to be recovered from mental illness by the court and
20 upon the Board's recommendation that the licensee be permitted
21 to resume his or her practice.

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

25 (g) In enforcing this Section, the Board or the Department,
26 upon a showing of a possible violation, may compel any licensee

1 or applicant for licensure under this Act to submit to a mental
2 or physical examination or both, as required by and at the
3 expense of the Department. The examining physician, or
4 multidisciplinary team involved in providing physical and
5 mental examinations led by a physician consisting of one or a
6 combination of licensed physicians, licensed clinical
7 psychologists, licensed clinical social workers, licensed
8 clinical professional counselors, and other professional and
9 administrative staff, shall be those specifically designated
10 by the Department. The Board or the Department may order the
11 examining physician or any member of the multidisciplinary team
12 to present testimony concerning this mental or physical
13 examination of the licensee or applicant. No information,
14 report, or other documents in any way related to the
15 examination shall be excluded by reason of any common law or
16 statutory privilege relating to communication between the
17 licensee or applicant and the examining physician or any member
18 of the multidisciplinary team. The individual to be examined
19 may have, at his or her own expense, another physician of his
20 or her choice present during all aspects of the examination.
21 Failure of any individual to submit to a mental or physical
22 examination when directed shall result in the automatic
23 suspension of his or her license until such time as the
24 individual submits to the examination. If the Board or
25 Department finds a pharmacist, registered certified pharmacy
26 technician, or registered pharmacy technician unable to

1 practice because of the reasons set forth in this Section, the
2 Board or Department shall require such pharmacist, registered
3 certified pharmacy technician, or registered pharmacy
4 technician to submit to care, counseling, or treatment by
5 physicians or other appropriate health care providers approved
6 or designated by the Department as a condition for continued,
7 restored ~~reinstated~~, or renewed licensure to practice. Any
8 pharmacist, registered certified pharmacy technician, or
9 registered pharmacy technician whose license was granted,
10 continued, restored ~~reinstated~~, renewed, disciplined, or
11 supervised, subject to such terms, conditions, or
12 restrictions, and who fails to comply with such terms,
13 conditions, or restrictions or to complete a required program
14 of care, counseling, or treatment, as determined by the chief
15 pharmacy coordinator, shall be referred to the Secretary for a
16 determination as to whether the licensee shall have his or her
17 license suspended immediately, pending a hearing by the Board.
18 In instances in which the Secretary immediately suspends a
19 license under this subsection (g), a hearing upon such person's
20 license must be convened by the Board within 15 days after such
21 suspension and completed without appreciable delay. The
22 Department and Board shall have the authority to review the
23 subject pharmacist's, registered certified pharmacy
24 technician's, or registered pharmacy technician's record of
25 treatment and counseling regarding the impairment.

26 (h) An individual or organization acting in good faith, and

1 not in a willful and wanton manner, in complying with this
2 Section by providing a report or other information to the
3 Board, by assisting in the investigation or preparation of a
4 report or information, by participating in proceedings of the
5 Board, or by serving as a member of the Board shall not, as a
6 result of such actions, be subject to criminal prosecution or
7 civil damages.

8 (i) Members of the Board shall have no liability in any
9 action based upon any disciplinary proceedings or other
10 activity performed in good faith as a member of the Board ~~be~~
11 ~~indemnified by the State for any actions occurring within the~~
12 ~~scope of services on the Board, done in good faith, and not~~
13 ~~willful and wanton in nature.~~ The Attorney General shall defend
14 all such actions unless he or she determines either that there
15 would be a conflict of interest in such representation or that
16 the actions complained of were not in good faith or were
17 willful and wanton.

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

24 The member must notify the Attorney General within 7 days
25 of receipt of notice of the initiation of any action involving
26 services of the Board. Failure to so notify the Attorney

1 General shall constitute an absolute waiver of the right to a
2 defense and indemnification.

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

6 (Source: P.A. 100-497, eff. 9-8-17.)

7 (225 ILCS 85/33) (from Ch. 111, par. 4153)

8 (Section scheduled to be repealed on January 1, 2020)

9 Sec. 33. The Secretary may, upon receipt of a written
10 communication from the Secretary of Human Services, the
11 Director of Healthcare and Family Services (formerly Director
12 of Public Aid), or the Director of Public Health that
13 continuation of practice of a person licensed or registered
14 under this Act constitutes an immediate danger to the public,
15 immediately suspend the license of such person without a
16 hearing. In instances in which the Secretary immediately
17 suspends a license under this Act, a hearing upon such person's
18 license must be convened by the Board within 15 days after such
19 suspension and completed without appreciable delay, such
20 hearing held to determine whether to recommend to the Secretary
21 that the person's license be revoked, suspended, placed on
22 probationary status or restored ~~reinstated~~, or such person be
23 subject to other disciplinary action. In such hearing, the
24 written communication and any other evidence submitted
25 therewith may be introduced as evidence against such person;

1 provided however, the person, or his counsel, shall have the
2 opportunity to discredit or impeach such evidence and submit
3 evidence rebutting same.

4 (Source: P.A. 100-497, eff. 9-8-17.)

5 (225 ILCS 85/35.3) (from Ch. 111, par. 4155.3)

6 (Section scheduled to be repealed on January 1, 2020)

7 Sec. 35.3. The Department, at its expense, shall preserve a
8 record of all proceedings at the formal hearing of any case
9 involving the refusal to issue, renew or discipline of a
10 license. The notice of hearing, complaint and all other
11 documents in the nature of pleadings and written motions filed
12 in the proceedings, the transcript of testimony, the report of
13 the Board or hearing officer, exhibits, and orders of the
14 Department shall be the record of such proceeding.

15 (Source: P.A. 85-796.)

16 (225 ILCS 85/35.5) (from Ch. 111, par. 4155.5)

17 (Section scheduled to be repealed on January 1, 2020)

18 Sec. 35.5. The Department shall have power to subpoena and
19 bring before it any person in this State and to take testimony,
20 either orally or by deposition or both, with the same fees and
21 mileage and in the same manner as prescribed by law in judicial
22 proceedings in civil cases in circuit courts of this State. The
23 Department may subpoena and compel the production of documents,
24 papers, files, books, and records in connection with any

1 hearing or investigation.

2 The Secretary, hearing officer, and any member of the
3 Board, shall each have power to administer oaths to witnesses
4 at any hearing which the Department is authorized to conduct
5 under this Act, and any other oaths required or authorized to
6 be administered by the Department hereunder.

7 (Source: P.A. 100-497, eff. 9-8-17.)

8 (225 ILCS 85/35.9) (from Ch. 111, par. 4155.9)

9 (Section scheduled to be repealed on January 1, 2020)

10 Sec. 35.9. Whenever the Secretary ~~Director~~ is satisfied
11 that substantial justice has not been done in the revocation,
12 suspension or refusal to issue or renew a license or
13 registration, the Secretary ~~Director~~ may order a rehearing by
14 the same hearing officer and Board.

15 (Source: P.A. 88-428.)

16 (225 ILCS 85/35.10) (from Ch. 111, par. 4155.10)

17 (Section scheduled to be repealed on January 1, 2020)

18 Sec. 35.10. None of the disciplinary functions, powers and
19 duties enumerated in this Act shall be exercised by the
20 Department except upon the review of the Board.

21 ~~In all instances, under this Act, in which the Board has~~
22 ~~rendered a recommendation to the Director with respect to a~~
23 ~~particular license or certificate, the Director shall, in the~~
24 ~~event that he or she disagrees with or takes action contrary to~~

1 ~~the recommendation of the Board, file with the Board his or her~~
2 ~~specific written reasons of disagreement with the Board.~~

3 (Source: P.A. 95-689, eff. 10-29-07.)

4 (225 ILCS 85/35.21)

5 (Section scheduled to be repealed on January 1, 2020)

6 Sec. 35.21. Citations.

7 (a) The Department may ~~shall~~ adopt rules to permit the
8 issuance of citations to any licensee for any violation of this
9 Act or the rules. The citation shall be issued to the licensee
10 or other person alleged to have committed one or more
11 violations and shall contain the licensee's or other person's
12 name and address, the licensee's license number, if any, a
13 brief factual statement, the Sections of this Act or the rules
14 allegedly violated, and the penalty imposed, which shall not
15 exceed \$1,000. The citation must clearly state that if the
16 cited person wishes to dispute the citation, he or she may
17 request in writing, within 30 days after the citation is
18 served, a hearing before the Department. If the cited person
19 does not request a hearing within 30 days after the citation is
20 served, then the citation shall become a final,
21 non-disciplinary order and any fine imposed is due and payable.
22 If the cited person requests a hearing within 30 days after the
23 citation is served, the Department shall afford the cited
24 person a hearing conducted in the same manner as a hearing
25 provided in this Act for any violation of this Act and shall

1 determine whether the cited person committed the violation as
2 charged and whether the fine as levied is warranted. If the
3 violation is found, any fine shall constitute discipline and be
4 due and payable within 30 days of the order of the Secretary.
5 Failure to comply with any final order may subject the licensed
6 person to further discipline or other action by the Department
7 or a referral to the State's Attorney.

8 (b) A citation must be issued within 6 months after the
9 reporting of a violation that is the basis for the citation.

10 (c) Service of a citation shall be made in person,
11 electronically, or by mail to the licensee at the licensee's
12 address of record or email address of record.

13 (d) Nothing in this Section shall prohibit or limit the
14 Department from taking further action pursuant to this Act and
15 rules for additional, repeated, or continuing violations.

16 (Source: P.A. 100-497, eff. 9-8-17.)

17 (225 ILCS 85/2.5 rep.)

18 (225 ILCS 85/29 rep.)

19 (225 ILCS 85/35.12 rep.)

20 Section 15. The Pharmacy Practice Act is amended by
21 repealing Sections 2.5, 29, and 35.12.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.