



Sen. Omar Aquino

Filed: 3/29/2019

10100SB0659sam001

LRB101 04420 AMC 58293 a

1 AMENDMENT TO SENATE BILL 659

2 AMENDMENT NO. _____. Amend Senate Bill 659 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Regulatory Sunset Act is amended by
5 changing 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 Acts repealed on January 1, 2020.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8 Acts are repealed on January 1, 2020: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.

1 ~~The Pharmacy Practice Act.~~

2 The Professional Engineering Practice Act of 1989.

3 The Real Estate License Act of 2000.

4 The Structural Engineering Practice Act of 1989.

5 (Source: P.A. 100-497, eff. 9-8-17; 100-534, eff. 9-22-17;
6 100-863, eff. 8-14-18.)

7 (5 ILCS 80/4.40 new)

8 Sec. 4.40. Act repealed on January 1, 2030. The following
9 Act is repealed on January 1, 2030:

10 The Pharmacy Practice Act.

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

14 (225 ILCS 85/30) (from Ch. 111, par. 4150)

15 (Section scheduled to be repealed on January 1, 2020)

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

18 (a) The Department may refuse to issue or renew, or may
19 revoke a license, or may suspend, place on probation, fine, or
20 take any disciplinary or non-disciplinary action as the
21 Department may deem proper, including fines not to exceed
22 \$10,000 for each violation, with regard to any licensee for any
23 one or combination of the following causes:

1 1. Material misstatement in furnishing information to
2 the Department.

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

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

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

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

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

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

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

24 9. Directly or indirectly giving to or receiving from
25 any person, firm, corporation, partnership, or association
26 any fee, commission, rebate or other form of compensation

1 for any professional services not actually or personally
2 rendered. Nothing in this item 9 affects any bona fide
3 independent contractor or employment arrangements among
4 health care professionals, health facilities, health care
5 providers, or other entities, except as otherwise
6 prohibited by law. Any employment arrangements may include
7 provisions for compensation, health insurance, pension, or
8 other employment benefits for the provision of services
9 within the scope of the licensee's practice under this Act.
10 Nothing in this item 9 shall be construed to require an
11 employment arrangement to receive professional fees for
12 services rendered.

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

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

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

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

24 14. Conviction by plea of guilty or nolo contendere,
25 finding of guilt, jury verdict, or entry of judgment or
26 sentencing, including, but not limited to, convictions,

1 preceding sentences of supervision, conditional discharge,
2 or first offender probation, under the laws of any
3 jurisdiction of the United States that is (i) a felony or
4 (ii) a misdemeanor, an essential element of which is
5 dishonesty, or that is directly related to the practice of
6 pharmacy.

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

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

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

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

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

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

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

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

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

24 24. Failing to report within 60 days to the Department
25 any adverse final action taken against a pharmacy,
26 pharmacist, registered pharmacy technician, or registered

1 certified pharmacy technician by another licensing
2 jurisdiction in any other state or any territory of the
3 United States or any foreign jurisdiction, any
4 governmental agency, any law enforcement agency, or any
5 court for acts or conduct similar to acts or conduct that
6 would constitute grounds for discipline as defined in this
7 Section.

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

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

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

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

22 (b) The Department may refuse to issue or may suspend the
23 license of any person who fails to file a return, or to pay the
24 tax, penalty or interest shown in a filed return, or to pay any
25 final assessment of tax, penalty or interest, as required by
26 any tax Act administered by the Illinois Department of Revenue,

1 until such time as the requirements of any such tax Act are
2 satisfied.

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

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

20 (e) The entry of an order or judgment by any circuit court
21 establishing that any person holding a license or certificate
22 under this Act is a person in need of mental treatment operates
23 as a suspension of that license. A licensee may resume his or
24 her practice only upon the entry of an order of the Department
25 based upon a finding by the Board that he or she has been
26 determined to be recovered from mental illness by the court and

1 upon the Board's recommendation that the licensee be permitted
2 to resume his or her practice.

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

6 (g) In enforcing this Section, the Board or the Department,
7 upon a showing of a possible violation, may compel any licensee
8 or applicant for licensure under this Act to submit to a mental
9 or physical examination or both, as required by and at the
10 expense of the Department. The examining physician, or
11 multidisciplinary team involved in providing physical and
12 mental examinations led by a physician consisting of one or a
13 combination of licensed physicians, licensed clinical
14 psychologists, licensed clinical social workers, licensed
15 clinical professional counselors, and other professional and
16 administrative staff, shall be those specifically designated
17 by the Department. The Board or the Department may order the
18 examining physician or any member of the multidisciplinary team
19 to present testimony concerning this mental or physical
20 examination of the licensee or applicant. No information,
21 report, or other documents in any way related to the
22 examination shall be excluded by reason of any common law or
23 statutory privilege relating to communication between the
24 licensee or applicant and the examining physician or any member
25 of the multidisciplinary team. The individual to be examined
26 may have, at his or her own expense, another physician of his

1 or her choice present during all aspects of the examination.
2 Failure of any individual to submit to a mental or physical
3 examination when directed shall result in the automatic
4 suspension of his or her license until such time as the
5 individual submits to the examination. If the Board or
6 Department finds a pharmacist, registered certified pharmacy
7 technician, or registered pharmacy technician unable to
8 practice because of the reasons set forth in this Section, the
9 Board or Department shall require such pharmacist, registered
10 certified pharmacy technician, or registered pharmacy
11 technician to submit to care, counseling, or treatment by
12 physicians or other appropriate health care providers approved
13 or designated by the Department as a condition for continued,
14 restored ~~reinstated~~, or renewed licensure to practice. Any
15 pharmacist, registered certified pharmacy technician, or
16 registered pharmacy technician whose license was granted,
17 continued, restored ~~reinstated~~, renewed, disciplined, or
18 supervised, subject to such terms, conditions, or
19 restrictions, and who fails to comply with such terms,
20 conditions, or restrictions or to complete a required program
21 of care, counseling, or treatment, as determined by the chief
22 pharmacy coordinator, shall be referred to the Secretary for a
23 determination as to whether the licensee shall have his or her
24 license suspended immediately, pending a hearing by the Board.
25 In instances in which the Secretary immediately suspends a
26 license under this subsection (g), a hearing upon such person's

1 license must be convened by the Board within 15 days after such
2 suspension and completed without appreciable delay. The
3 Department and Board shall have the authority to review the
4 subject pharmacist's, registered certified pharmacy
5 technician's, or registered pharmacy technician's record of
6 treatment and counseling regarding the impairment.

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

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

25 If the Attorney General declines representation, the
26 member shall have the right to employ counsel of his or her

1 choice, whose fees shall be provided by the State, after
2 approval by the Attorney General, unless there is a
3 determination by a court that the member's actions were not in
4 good faith or were willful and wanton.

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

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

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

14 (225 ILCS 85/33) (from Ch. 111, par. 4153)

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

16 Sec. 33. The Secretary may, upon receipt of a written
17 communication from the Secretary of Human Services, the
18 Director of Healthcare and Family Services (formerly Director
19 of Public Aid), or the Director of Public Health that
20 continuation of practice of a person licensed or registered
21 under this Act constitutes an immediate danger to the public,
22 immediately suspend the license of such person without a
23 hearing. In instances in which the Secretary immediately
24 suspends a license under this Act, a hearing upon such person's
25 license must be convened by the Board within 15 days after such

1 suspension and completed without appreciable delay, such
2 hearing held to determine whether to recommend to the Secretary
3 that the person's license be revoked, suspended, placed on
4 probationary status or restored ~~reinstated~~, or such person be
5 subject to other disciplinary action. In such hearing, the
6 written communication and any other evidence submitted
7 therewith may be introduced as evidence against such person;
8 provided however, the person, or his counsel, shall have the
9 opportunity to discredit or impeach such evidence and submit
10 evidence rebutting same.

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

12 (225 ILCS 85/35.3) (from Ch. 111, par. 4155.3)

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

14 Sec. 35.3. The Department, at its expense, shall preserve a
15 record of all proceedings at the formal hearing of any case
16 involving the refusal to issue, renew or discipline of a
17 license. The notice of hearing, complaint and all other
18 documents in the nature of pleadings and written motions filed
19 in the proceedings, the transcript of testimony, the report of
20 the Board or hearing officer, exhibits, and orders of the
21 Department shall be the record of such proceeding.

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

23 (225 ILCS 85/35.5) (from Ch. 111, par. 4155.5)

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

1 Sec. 35.5. The Department shall have power to subpoena and
2 bring before it any person in this State and to take testimony,
3 either orally or by deposition or both, with the same fees and
4 mileage and in the same manner as prescribed by law in judicial
5 proceedings in civil cases in circuit courts of this State. The
6 Department may subpoena and compel the production of documents,
7 papers, files, books, and records in connection with any
8 hearing or investigation.

9 The Secretary, hearing officer, and any member of the
10 Board, shall each have power to administer oaths to witnesses
11 at any hearing which the Department is authorized to conduct
12 under this Act, and any other oaths required or authorized to
13 be administered by the Department hereunder.

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

15 (225 ILCS 85/35.9) (from Ch. 111, par. 4155.9)

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

17 Sec. 35.9. Whenever the Secretary ~~Director~~ is satisfied
18 that substantial justice has not been done in the revocation,
19 suspension or refusal to issue or renew a license or
20 registration, the Secretary ~~Director~~ may order a rehearing by
21 the same hearing officer and Board.

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

23 (225 ILCS 85/35.10) (from Ch. 111, par. 4155.10)

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

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

4 ~~In all instances, under this Act, in which the Board has~~
5 ~~rendered a recommendation to the Director with respect to a~~
6 ~~particular license or certificate, the Director shall, in the~~
7 ~~event that he or she disagrees with or takes action contrary to~~
8 ~~the recommendation of the Board, file with the Board his or her~~
9 ~~specific written reasons of disagreement with the Board.~~

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

11 (225 ILCS 85/35.21)

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

13 Sec. 35.21. Citations.

14 (a) The Department may ~~shall~~ adopt rules to permit the
15 issuance of citations to any licensee for any violation of this
16 Act or the rules. The citation shall be issued to the licensee
17 or other person alleged to have committed one or more
18 violations and shall contain the licensee's or other person's
19 name and address, the licensee's license number, if any, a
20 brief factual statement, the Sections of this Act or the rules
21 allegedly violated, and the penalty imposed, which shall not
22 exceed \$1,000. The citation must clearly state that if the
23 cited person wishes to dispute the citation, he or she may
24 request in writing, within 30 days after the citation is
25 served, a hearing before the Department. If the cited person

1 does not request a hearing within 30 days after the citation is
2 served, then the citation shall become a final,
3 non-disciplinary order and any fine imposed is due and payable.
4 If the cited person requests a hearing within 30 days after the
5 citation is served, the Department shall afford the cited
6 person a hearing conducted in the same manner as a hearing
7 provided in this Act for any violation of this Act and shall
8 determine whether the cited person committed the violation as
9 charged and whether the fine as levied is warranted. If the
10 violation is found, any fine shall constitute discipline and be
11 due and payable within 30 days of the order of the Secretary.
12 Failure to comply with any final order may subject the licensed
13 person to further discipline or other action by the Department
14 or a referral to the State's Attorney.

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

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

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

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

24 (225 ILCS 85/2.5 rep.)

25 (225 ILCS 85/29 rep.)

1 (225 ILCS 85/35.12 rep.)

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

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".