



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3109

Introduced 2/17/2023, by Rep. William E Hauter

SYNOPSIS AS INTRODUCED:

225 ILCS 60/9
225 ILCS 60/22

from Ch. 111, par. 4400-9
from Ch. 111, par. 4400-22

Amends the Medical Practice Act of 1987. In provisions concerning application for medical licensure, provides that the Illinois State Medical Board, in determining mental capacity, shall ensure questions concerning mental health are compliant with the guidelines of the federal Americans with Disabilities Act. Makes a corresponding change.

LRB103 29825 AMQ 56233 b

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 Medical Practice Act of 1987 is amended by
5 changing Sections 9 and 22 as follows:

6 (225 ILCS 60/9) (from Ch. 111, par. 4400-9)

7 (Section scheduled to be repealed on January 1, 2027)

8 Sec. 9. Application for license. Each applicant for a
9 license shall:

10 (A) Make application on blank forms prepared and
11 furnished by the Department.

12 (B) Submit evidence satisfactory to the Department
13 that the applicant:

14 (1) is of good moral character. In determining
15 moral character under this Section, the Department may
16 take into consideration whether the applicant has
17 engaged in conduct or activities which would
18 constitute grounds for discipline under this Act. The
19 Department may also request the applicant to submit,
20 and may consider as evidence of moral character,
21 endorsements from 2 or 3 individuals licensed under
22 this Act;

23 (2) has the preliminary and professional education

1 required by this Act;

2 (3) (blank); and

3 (4) is physically, mentally, and professionally
4 capable of practicing medicine with reasonable
5 judgment, skill, and safety. In determining physical
6 and mental capacity under this Section, the Medical
7 Board may, upon a showing of a possible incapacity or
8 conduct or activities that would constitute grounds
9 for discipline under this Act, compel any applicant to
10 submit to a mental or physical examination and
11 evaluation, or both, as provided for in Section 22 of
12 this Act. The Medical Board may condition or restrict
13 any license, subject to the same terms and conditions
14 as are provided for the Medical Board under Section 22
15 of this Act. Any such condition of a restricted
16 license shall provide that the Chief Medical
17 Coordinator or Deputy Medical Coordinator shall have
18 the authority to review the subject physician's
19 compliance with such conditions or restrictions,
20 including, where appropriate, the physician's record
21 of treatment and counseling regarding the impairment,
22 to the extent permitted by applicable federal statutes
23 and regulations safeguarding the confidentiality of
24 medical records of patients. The Medical Board, in
25 determining mental capacity, shall ensure questions
26 concerning mental health are compliant with the

1 guidelines of the federal Americans with Disabilities
2 Act.

3 In determining professional capacity under this
4 Section, an individual may be required to complete such
5 additional testing, training, or remedial education as the
6 Medical Board may deem necessary in order to establish the
7 applicant's present capacity to practice medicine with
8 reasonable judgment, skill, and safety. The Medical Board
9 may consider the following criteria, as they relate to an
10 applicant, as part of its determination of professional
11 capacity:

12 (1) Medical research in an established research
13 facility, hospital, college or university, or private
14 corporation.

15 (2) Specialized training or education.

16 (3) Publication of original work in learned,
17 medical, or scientific journals.

18 (4) Participation in federal, State, local, or
19 international public health programs or organizations.

20 (5) Professional service in a federal veterans or
21 military institution.

22 (6) Any other professional activities deemed to
23 maintain and enhance the clinical capabilities of the
24 applicant.

25 Any applicant applying for a license to practice
26 medicine in all of its branches or for a license as a

1 chiropractic physician who has not been engaged in the
2 active practice of medicine or has not been enrolled in a
3 medical program for 2 years prior to application must
4 submit proof of professional capacity to the Medical
5 Board.

6 Any applicant applying for a temporary license that
7 has not been engaged in the active practice of medicine or
8 has not been enrolled in a medical program for longer than
9 5 years prior to application must submit proof of
10 professional capacity to the Medical Board.

11 (C) Designate specifically the name, location, and
12 kind of professional school, college, or institution of
13 which the applicant is a graduate and the category under
14 which the applicant seeks, and will undertake, to
15 practice.

16 (D) Pay to the Department at the time of application
17 the required fees.

18 (E) Pursuant to Department rules, as required, pass an
19 examination authorized by the Department to determine the
20 applicant's fitness to receive a license.

21 (F) Complete the application process within 3 years
22 from the date of application. If the process has not been
23 completed within 3 years, the application shall expire,
24 application fees shall be forfeited, and the applicant
25 must reapply and meet the requirements in effect at the
26 time of reapplication.

1 (Source: P.A. 102-20, eff. 1-1-22.)

2 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

4 Sec. 22. Disciplinary action.

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

12 (1) (Blank).

13 (2) (Blank).

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

20 (4) Gross negligence in practice under this Act.

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

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

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

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

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

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

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

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

1 participants.

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

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

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

14 (16) Abandonment of a patient.

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

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

24 (19) Offering, undertaking, or agreeing to cure or
25 treat disease by a secret method, procedure, treatment, or
26 medicine, or the treating, operating, or prescribing for

1 any human condition by a method, means, or procedure which
2 the licensee refuses to divulge upon demand of the
3 Department.

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

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

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

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

25 (24) Solicitation of professional patronage by any
26 corporation, agents, or persons, or profiting from those

1 representing themselves to be agents of the licensee.

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

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

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

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

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

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

26 (31) The use of any false, fraudulent, or deceptive

1 statement in any document connected with practice under
2 this Act.

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

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

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

19 (35) Failure to report to the Department surrender of
20 a license or authorization to practice as a medical
21 doctor, a doctor of osteopathy, a doctor of osteopathic
22 medicine, or doctor of chiropractic in another state or
23 jurisdiction, or surrender of membership on any medical
24 staff or in any medical or professional association or
25 society, while under disciplinary investigation by any of
26 those authorities or bodies, for acts or conduct similar

1 to acts or conduct which would constitute grounds for
2 action as defined in this Section.

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

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

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

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

17 (40) (Blank).

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

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

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

26 (44) Violating the Compassionate Use of Medical

1 Cannabis Program Act.

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

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

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

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

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

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

24 Except for actions involving the ground numbered (26), all
25 proceedings to suspend, revoke, place on probationary status,
26 or take any other disciplinary action as the Department may

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

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

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

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

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

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

26 (c) what constitutes immoral conduct in the commission

1 of any act, including, but not limited to, commission of
2 an act of sexual misconduct related to the licensee's
3 practice; and

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

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

9 In enforcing this Section, the Medical Board, upon a
10 showing of a possible violation, may compel any individual who
11 is licensed to practice under this Act or holds a permit to
12 practice under this Act, or any individual who has applied for
13 licensure or a permit pursuant to this Act, to submit to a
14 mental or physical examination and evaluation, or both, which
15 may include a substance abuse or sexual offender evaluation,
16 as required by the Medical Board and at the expense of the
17 Department. The Medical Board shall specifically designate the
18 examining physician licensed to practice medicine in all of
19 its branches or, if applicable, the multidisciplinary team
20 involved in providing the mental or physical examination and
21 evaluation, or both. The multidisciplinary team shall be led
22 by a physician licensed to practice medicine in all of its
23 branches and may consist of one or more or a combination of
24 physicians licensed to practice medicine in all of its
25 branches, licensed chiropractic physicians, licensed clinical
26 psychologists, licensed clinical social workers, licensed

1 clinical professional counselors, and other professional and
2 administrative staff. Any examining physician or member of the
3 multidisciplinary team may require any person ordered to
4 submit to an examination and evaluation pursuant to this
5 Section to submit to any additional supplemental testing
6 deemed necessary to complete any examination or evaluation
7 process, including, but not limited to, blood testing,
8 urinalysis, psychological testing, or neuropsychological
9 testing. The Medical Board or the Department may order the
10 examining physician or any member of the multidisciplinary
11 team to provide to the Department or the Medical Board any and
12 all records, including business records, that relate to the
13 examination and evaluation, including any supplemental testing
14 performed. The Medical Board or the Department may order the
15 examining physician or any member of the multidisciplinary
16 team to present testimony concerning this examination and
17 evaluation of the licensee, permit holder, or applicant,
18 including testimony concerning any supplemental testing or
19 documents relating to the examination and evaluation. No
20 information, report, record, or other documents in any way
21 related to the examination and evaluation shall be excluded by
22 reason of any common law or statutory privilege relating to
23 communication between the licensee, permit holder, or
24 applicant and the examining physician or any member of the
25 multidisciplinary team. No authorization is necessary from the
26 licensee, permit holder, or applicant ordered to undergo an

1 evaluation and examination for the examining physician or any
2 member of the multidisciplinary team to provide information,
3 reports, records, or other documents or to provide any
4 testimony regarding the examination and evaluation. The
5 individual to be examined may have, at his or her own expense,
6 another physician of his or her choice present during all
7 aspects of the examination. Failure of any individual to
8 submit to mental or physical examination and evaluation, or
9 both, when directed, shall result in an automatic suspension,
10 without hearing, until such time as the individual submits to
11 the examination. If the Medical Board finds a physician unable
12 to practice following an examination and evaluation because of
13 the reasons set forth in this Section, the Medical Board shall
14 require such physician to submit to care, counseling, or
15 treatment by physicians, or other health care professionals,
16 approved or designated by the Medical Board, as a condition
17 for issued, continued, reinstated, or renewed licensure to
18 practice. Any physician, whose license was granted pursuant to
19 Section 9, 17, or 19 of this Act, or, continued, reinstated,
20 renewed, disciplined, or supervised, subject to such terms,
21 conditions, or restrictions who shall fail to comply with such
22 terms, conditions, or restrictions, or to complete a required
23 program of care, counseling, or treatment, as determined by
24 the Chief Medical Coordinator or Deputy Medical Coordinators,
25 shall be referred to the Secretary for a determination as to
26 whether the licensee shall have his or her license suspended

1 immediately, pending a hearing by the Medical Board. In
2 instances in which the Secretary immediately suspends a
3 license under this Section, a hearing upon such person's
4 license must be convened by the Medical Board within 15 days
5 after such suspension and completed without appreciable delay.
6 The Medical Board shall have the authority to review the
7 subject physician's record of treatment and counseling
8 regarding the impairment, to the extent permitted by
9 applicable federal statutes and regulations safeguarding the
10 confidentiality of medical records.

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

16 The Medical Board, in determining mental capacity of an
17 individual licensed under this Act shall ensure questions
18 concerning mental health are compliant with the guidelines of
19 the federal Americans with Disabilities Act.

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

1 State Medical Disciplinary Fund.

2 All fines imposed under this Section shall be paid within
3 60 days after the effective date of the order imposing the fine
4 or in accordance with the terms set forth in the order imposing
5 the fine.

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

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

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

26 (2) for experimental treatment for Lyme disease or

1 other tick-borne diseases, including, but not limited to,
2 the prescription of or treatment with long-term
3 antibiotics;

4 (3) based solely upon the physician providing,
5 authorizing, recommending, aiding, assisting, referring
6 for, or otherwise participating in any health care
7 service, so long as the care was not unlawful under the
8 laws of this State, regardless of whether the patient was
9 a resident of this State or another state; or

10 (4) based upon the physician's license being revoked
11 or suspended, or the physician being otherwise disciplined
12 by any other state, if that revocation, suspension, or
13 other form of discipline was based solely on the physician
14 violating another state's laws prohibiting the provision
15 of, authorization of, recommendation of, aiding or
16 assisting in, referring for, or participation in any
17 health care service if that health care service as
18 provided would not have been unlawful under the laws of
19 this State and is consistent with the standards of conduct
20 for the physician if it occurred in Illinois.

21 (D) (Blank).

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

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

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

18 (Source: P.A. 101-13, eff. 6-12-19; 101-81, eff. 7-12-19;
19 101-363, eff. 8-9-19; 102-20, eff. 1-1-22; 102-558, eff.
20 8-20-21; 102-813, eff. 5-13-22; 102-1117, eff. 1-13-23.)