



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1716

Introduced 2/9/2023, by Sen. Suzy Glowiak Hilton

SYNOPSIS AS INTRODUCED:

See Index

Amends the Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act. Provides that all applicants and registrants shall: (1) provide a valid address and email address to the Department of Financial and Professional Regulation, which shall serve as the address of record and email address of record, respectively, at the time of application for registration or renewal of a registration; and (2) inform the Department of any change of address of record or email address of record within 14 days after such change. Provides that the Secretary (rather than the Department) shall observe the rehearing proceedings. Provides that in a denial for a rehearing, the Secretary may enter an order in accordance with the recommendations of the hearing officer (rather than the Department). Provides that the hearing officer shall report the hearing officer's findings of fact, conclusions of law, and recommendations to the Secretary (rather than the Department). Removes a provision providing that exhibits shall be certified without cost. Makes corresponding and other changes. Amends the Regulatory Sunset Act. Repeals the Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act on January 1, 2029 (rather than January 1, 2024). Provisions amending the Regulatory Sunset Act are effective immediately.

LRB103 27343 AMQ 53715 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 Regulatory Sunset Act is amended by
5 changing Sections 4.34 and 4.39 as follows:

6 (5 ILCS 80/4.34)

7 Sec. 4.34. Acts and Section repealed on January 1, 2024.

8 The following Acts and Section of an Act are repealed on
9 January 1, 2024:

10 The Crematory Regulation Act.

11 The Electrologist Licensing Act.

12 The Illinois Certified Shorthand Reporters Act of
13 1984.

14 The Illinois Occupational Therapy Practice Act.

15 The Illinois Public Accounting Act.

16 The Private Detective, Private Alarm, Private
17 Security, Fingerprint Vendor, and Locksmith Act of 2004.

18 ~~The Registered Surgical Assistant and Registered~~
19 ~~Surgical Technologist Title Protection Act.~~

20 Section 2.5 of the Illinois Plumbing License Law.

21 The Veterinary Medicine and Surgery Practice Act of
22 2004.

23 (Source: P.A. 102-291, eff. 8-6-21.)

1 (5 ILCS 80/4.39)

2 Sec. 4.39. Acts repealed on January 1, 2029 and December
3 31, 2029.

4 (a) The following Act is repealed on January 1, 2029:

5 The Environmental Health Practitioner Licensing Act.

6 The Registered Surgical Assistant and Registered
7 Surgical Technologist Title Protection Act.

8 (b) The following Act is repealed on December 31, 2029:

9 The Structural Pest Control Act.

10 (Source: P.A. 100-716, eff. 8-3-18; 100-796, eff. 8-10-18;
11 101-81, eff. 7-12-19.)

12 Section 10. The Registered Surgical Assistant and
13 Registered Surgical Technologist Title Protection Act is
14 amended by changing Sections 10, 20, 30, 75, 85, 110, 115, 120,
15 and 150 and by adding Section 12 as follows:

16 (225 ILCS 130/10)

17 (Section scheduled to be repealed on January 1, 2024)

18 Sec. 10. Definitions. As used in this Act:

19 "Address of record" means the designated address recorded
20 by the Department in the applicant's or registrant's
21 application file or registration file as maintained by the
22 Department's licensure maintenance unit. It is the duty of the
23 applicant or registrant to inform the Department of any change

1 of address and those changes must be made either through the
2 Department's website or by contacting the Department.

3 "Department" means the Department of Financial and
4 Professional Regulation.

5 "Direct supervision" means supervision by a licensed
6 physician, licensed podiatric physician, or licensed dentist
7 who is physically present and who personally directs delegated
8 acts and remains available to personally respond to an
9 emergency until the patient is released from the operating
10 room. A registered professional nurse may also provide direct
11 supervision within the scope of his or her license. A
12 registered surgical assistant or registered surgical
13 technologist shall perform duties as assigned.

14 "Email address of record" means the designated email
15 address recorded by the Department in the applicant's
16 application file or the licensee's license file, as maintained
17 by the Department's licensure maintenance unit.

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

20 "Registered surgical assistant" means a person who (i) is
21 not licensed to practice medicine in all of its branches, (ii)
22 is certified by the National Surgical Assistant Association as
23 a Certified Surgical Assistant, the National Board of Surgical
24 Technology and Surgical Assisting as a Certified Surgical
25 First Assistant, or the American Board of Surgical Assistants
26 as a Surgical Assistant-Certified, (iii) performs duties under

1 direct supervision, (iv) provides services only in a licensed
2 hospital, ambulatory treatment center, or office of a
3 physician licensed to practice medicine in all its branches,
4 and (v) is registered under this Act.

5 "Registered surgical technologist" means a person who (i)
6 is not a physician licensed to practice medicine in all of its
7 branches, (ii) is certified by the National Board for Surgical
8 Technology and Surgical Assisting, (iii) performs duties under
9 direct supervision, (iv) provides services only in a licensed
10 hospital, ambulatory treatment center, or office of a
11 physician licensed to practice medicine in all its branches,
12 and (v) is registered under this Act.

13 "Secretary" means the Secretary of Financial and
14 Professional Regulation.

15 (Source: P.A. 98-214, eff. 8-9-13; 98-364, eff. 12-31-13;
16 98-756, eff. 7-16-14.)

17 (225 ILCS 130/12 new)

18 Sec. 12. Address of record; email address of record. All
19 applicants and registrants shall:

20 (1) provide a valid address and email address to the
21 Department, which shall serve as the address of record and
22 email address of record, respectively, at the time of
23 application for registration or renewal of a registration;
24 and

25 (2) inform the Department of any change of address of

1 record or email address of record within 14 days after
2 such change, either through the Department's website or by
3 contacting the Department's licensure maintenance unit.

4 (225 ILCS 130/20)

5 (Section scheduled to be repealed on January 1, 2024)

6 Sec. 20. Illinois Administrative Procedure Act. The
7 Illinois Administrative Procedure Act is expressly adopted and
8 incorporated in this Act as if all of the provisions of the
9 Illinois Administrative Procedure Act were included in this
10 Act, except that the provision of subsection (d) of Section
11 10-65 of the Illinois Administrative Procedure Act that
12 provides that at hearings the registrant has the right to show
13 compliance with all lawful requirements for retention,
14 continuation, or renewal of the registration is specifically
15 excluded. For purposes of this Act, the notice required under
16 Section 10-25 of the Illinois Administrative Procedure Act is
17 deemed sufficient when mailed to the registrant's address of
18 record or email address of record.

19 (Source: P.A. 98-364, eff. 12-31-13.)

20 (225 ILCS 130/30)

21 (Section scheduled to be repealed on January 1, 2024)

22 Sec. 30. Social Security Number or individual taxpayer
23 identification number on registration application. In addition
24 to any other information required to be contained in the

1 application, every application for an original certificate of
2 registration under this Act shall include the applicant's
3 Social Security Number or individual taxpayer identification
4 number, which shall be retained in the agency's records
5 pertaining to the registration. As soon as practical, the
6 Department shall assign a customer's identification number to
7 each applicant for a registration.

8 Every application for a renewed, reinstated, or restored
9 registration shall require the applicant's customer
10 identification number.

11 (Source: P.A. 97-400, eff. 1-1-12; 98-364, eff. 12-31-13.)

12 (225 ILCS 130/75)

13 (Section scheduled to be repealed on January 1, 2024)

14 Sec. 75. Grounds for disciplinary action.

15 (a) The Department may refuse to issue, renew, or restore
16 a registration, may revoke or suspend a registration, or may
17 place on probation, reprimand, or take other disciplinary or
18 non-disciplinary action with regard to a person registered
19 under this Act, including, but not limited to, the imposition
20 of fines not to exceed \$10,000 for each violation and the
21 assessment of costs as provided for in Section 90, for any one
22 or combination of the following causes:

23 (1) Making a material misstatement in furnishing
24 information to the Department.

25 (2) Violating a provision of this Act or rules adopted

1 under this Act.

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

11 (4) Fraud or misrepresentation in applying for,
12 renewing, restoring, reinstating, or procuring a
13 registration under this Act.

14 (5) Aiding or assisting another person in violating a
15 provision of this Act or its rules.

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

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

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

1 (9) Directly or indirectly giving to or receiving from
2 a person, firm, corporation, partnership, or association a
3 fee, commission, rebate, or other form of compensation for
4 professional services not actually or personally rendered.
5 Nothing in this paragraph (9) affects any bona fide
6 independent contractor or employment arrangements among
7 health care professionals, health facilities, health care
8 providers, or other entities, except as otherwise
9 prohibited by law. Any employment arrangements may include
10 provisions for compensation, health insurance, pension, or
11 other employment benefits for the provision of services
12 within the scope of the registrant's practice under this
13 Act. Nothing in this paragraph (9) shall be construed to
14 require an employment arrangement to receive professional
15 fees for services rendered.

16 (10) A finding by the Department that the registrant,
17 after having the ~~his or her~~ registration placed on
18 probationary status, has violated the terms of probation.

19 (11) Willfully making or filing false records or
20 reports in the ~~his or her~~ practice, including, but not
21 limited to, false records or reports filed with State
22 agencies.

23 (12) Willfully making or signing a false statement,
24 certificate, or affidavit to induce payment.

25 (13) Willfully failing to report an instance of
26 suspected child abuse or neglect as required under the

1 Abused and Neglected Child Reporting Act.

2 (14) Being named as a perpetrator in an indicated
3 report by the Department of Children and Family Services
4 under the Abused and Neglected Child Reporting Act and
5 upon proof by clear and convincing evidence that the
6 registrant has caused a child to be an abused child or
7 neglected child as defined in the Abused and Neglected
8 Child Reporting Act.

9 (15) (Blank).

10 (16) Failure to report to the Department (A) any
11 adverse final action taken against the registrant by
12 another registering or licensing jurisdiction, government
13 agency, law enforcement agency, or any court or (B)
14 liability for conduct that would constitute grounds for
15 action as set forth in this Section.

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

20 (18) Physical or mental illness, including, but not
21 limited to, deterioration through the aging process or
22 loss of motor skills, which results in the inability to
23 practice the profession for which the person ~~he or she~~ is
24 registered with reasonable judgment, skill, or safety.

25 (19) Gross malpractice.

26 (20) Immoral conduct in the commission of an act

1 related to the registrant's practice, including, but not
2 limited to, sexual abuse, sexual misconduct, or sexual
3 exploitation.

4 (21) Violation of the Health Care Worker Self-Referral
5 Act.

6 (b) The Department may refuse to issue or may suspend
7 without hearing the registration of a person who fails to file
8 a return, to pay the tax, penalty, or interest shown in a filed
9 return, or to pay a final assessment of the tax, penalty, or
10 interest as required by a tax Act administered by the
11 Department of Revenue, until the requirements of the tax Act
12 are satisfied in accordance with subsection (g) of Section
13 2105-15 of the Department of Regulation Law of the Civil
14 Administrative Code of Illinois.

15 (c) The determination by a circuit court that a registrant
16 is subject to involuntary admission or judicial admission as
17 provided in the Mental Health and Developmental Disabilities
18 Code operates as an automatic suspension. The suspension will
19 end only upon (1) a finding by a court that the patient is no
20 longer subject to involuntary admission or judicial admission,
21 (2) issuance of an order so finding and discharging the
22 patient, and (3) filing of a petition for restoration
23 demonstrating fitness to practice.

24 (d) (Blank).

25 (e) In cases where the Department of Healthcare and Family
26 Services has previously determined a registrant or a potential

1 registrant is more than 30 days delinquent in the payment of
2 child support and has subsequently certified the delinquency
3 to the Department, the Department may refuse to issue or renew
4 or may revoke or suspend that person's registration or may
5 take other disciplinary action against that person based
6 solely upon the certification of delinquency made by the
7 Department of Healthcare and Family Services in accordance
8 with paragraph (5) of subsection (a) of Section 2105-15 of the
9 Department of Professional Regulation Law of the Civil
10 Administrative Code of Illinois.

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

1 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.

10 The Department may order the examining physician or any
11 member of the multidisciplinary team to provide to the
12 Department any and all records, including business records,
13 that relate to the examination and evaluation, including any
14 supplemental testing performed. 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 registrant or applicant, including testimony
18 concerning any supplemental testing or documents relating to
19 the examination and evaluation. No information, report,
20 record, or other documents in any way related to the
21 examination and evaluation shall be excluded by reason of any
22 common law or statutory privilege relating to communication
23 between the registrant or applicant and the examining
24 physician or any member of the multidisciplinary team. No
25 authorization is necessary from the registrant or applicant
26 ordered to undergo an evaluation and examination for the

1 examining physician or any member of the multidisciplinary
2 team to provide information, reports, records, or other
3 documents or to provide any testimony regarding the
4 examination and evaluation. The individual to be examined may
5 have, at the individual's ~~his or her~~ own expense, another
6 physician of the individual's ~~his or her~~ choice present during
7 all aspects of the examination.

8 Failure of any individual to submit to mental or physical
9 examination and evaluation, or both, when directed, shall
10 result in an automatic suspension without a hearing until such
11 time as the individual submits to the examination. If the
12 Department finds a registrant unable to practice because of
13 the reasons set forth in this Section, the Department shall
14 require such registrant to submit to care, counseling, or
15 treatment by physicians approved or designated by the
16 Department as a condition for continued, reinstated, or
17 renewed registration.

18 When the Secretary immediately suspends a registration
19 under this Section, a hearing upon such person's registration
20 must be convened by the Department within 15 days after such
21 suspension and completed without appreciable delay. The
22 Department shall have the authority to review the registrant's
23 record of treatment and counseling regarding the impairment to
24 the extent permitted by applicable federal statutes and
25 regulations safeguarding the confidentiality of medical
26 records.

1 Individuals registered under this Act and affected under
2 this Section shall be afforded an opportunity to demonstrate
3 to the Department that they can resume practice in compliance
4 with acceptable and prevailing standards under the provisions
5 of their registration.

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

10 (Source: P.A. 100-872, eff. 8-14-18.)

11 (225 ILCS 130/85)

12 (Section scheduled to be repealed on January 1, 2024)

13 Sec. 85. Investigation; notice; hearing. The Department
14 may investigate the actions of a person applying for, holding,
15 or claiming to hold a certificate of registration. The
16 Department shall, before refusing to issue or renew a
17 registration or taking other disciplinary or non-disciplinary
18 action pursuant to Section 75 of this Act, and at least 30 days
19 prior to the date set for the hearing, (i) notify in writing
20 the applicant or registrant of the charges made and the time
21 and place for a hearing of the charges, (ii) direct the
22 applicant or registrant to file a written answer to the
23 Department under oath within 20 days after the service of the
24 notice, and (iii) inform the applicant or registrant that
25 failure to file an answer will result in default being taken

1 against the applicant or registrant.

2 Written notice and any notice in the subsequent proceeding
3 may be served by ~~registered or certified~~ mail to the
4 applicant's or registrant's address of record or email address
5 of record. If the person fails to file an answer after
6 receiving notice, his or her certificate of registration may,
7 in the discretion of the Department, be suspended, revoked, or
8 placed on probationary status or the Department may take
9 whatever disciplinary or non-disciplinary action deemed
10 proper, including limiting the delegated tasks or the
11 imposition of a fine, without a hearing, if the act or acts
12 charged constitute sufficient grounds for such action under
13 this Act. At the time and place fixed in the notice, the
14 Department shall proceed to hearing of the charges and the
15 parties and their counsel shall be afforded ample opportunity
16 to present any pertinent statements, testimony, evidence, and
17 arguments. The Department may continue a hearing from time to
18 time.

19 (Source: P.A. 98-364, eff. 12-31-13.)

20 (225 ILCS 130/110)

21 (Section scheduled to be repealed on January 1, 2024)

22 Sec. 110. Motion for rehearing. In a case involving the
23 refusal to issue or renew a registration or the discipline of a
24 registrant, a copy of the hearing officer's report shall be
25 served upon the respondent by the Department, as provided

1 under Section 20 of this Act. Within 20 days after the service,
2 the respondent may present to the Secretary ~~Department~~ a
3 motion in writing for a rehearing, which shall specify the
4 particular grounds for a rehearing. If no motion for rehearing
5 is filed, then upon the expiration of the time specified for
6 filing the motion, or if a motion for rehearing is denied, then
7 upon the denial, the Secretary may enter an order in
8 accordance with recommendations of the hearing officer
9 ~~Department~~, except as provided in Section 115 or 120 of this
10 Act. If the respondent orders a transcript of the record from
11 the reporting service and pays for the transcript within the
12 time for filing a motion for rehearing, the 20-day period
13 within which such a motion may be filed shall commence upon the
14 delivery of the transcript to the respondent.

15 (Source: P.A. 98-364, eff. 12-31-13.)

16 (225 ILCS 130/115)

17 (Section scheduled to be repealed on January 1, 2024)

18 Sec. 115. Order of Secretary. The Secretary's order shall
19 be based on the recommendations contained in the hearing
20 officer's ~~Department~~ report unless the Secretary disagrees in
21 any regard with the report of the hearing officer ~~Department~~,
22 in which case the Secretary ~~he or she~~ may issue an order in
23 contravention of the report. The hearing officer's report and
24 Secretary's order are not admissible in evidence against the
25 person in a criminal prosecution brought for a violation of

1 this Act, but the hearing, report, and order are not a bar to a
2 criminal prosecution brought for the violation of this Act.

3 (Source: P.A. 98-364, eff. 12-31-13.)

4 (225 ILCS 130/120)

5 (Section scheduled to be repealed on January 1, 2024)

6 Sec. 120. Hearing officer. The Secretary shall have the
7 authority to appoint an attorney licensed to practice law in
8 this State to serve as the hearing officer in a hearing
9 authorized under Section 90 of this Act. The hearing officer
10 shall have full authority to conduct the hearing. The hearing
11 officer shall report the hearing officer's ~~his or her~~ findings
12 of fact, conclusions of law, and recommendations to the
13 Secretary ~~Department~~. If the Secretary disagrees in any regard
14 with the report of the hearing officer ~~Department~~, the
15 Secretary ~~he or she~~ may issue an order in contravention of the
16 report. ~~The Secretary shall provide a written explanation to~~
17 ~~the Department on a deviation from the Department's report and~~
18 ~~shall specify with particularity the reasons for his or her~~
19 ~~deviation in the final order.~~

20 (Source: P.A. 98-364, eff. 12-31-13.)

21 (225 ILCS 130/150)

22 (Section scheduled to be repealed on January 1, 2024)

23 Sec. 150. Certificate of record. The Department shall not
24 be required to certify any record to a court or file an answer

1 in court or otherwise appear in a court in a judicial review
2 proceeding unless and until the Department has received from
3 the plaintiff payment of the costs of furnishing and
4 certifying the record, which costs shall be determined by the
5 Department. ~~Exhibits shall be certified without cost.~~ Failure
6 on the part of the plaintiff to file a receipt in court shall
7 be grounds for dismissal of the action.

8 (Source: P.A. 98-364, eff. 12-31-13.)

9 Section 99. Effective date. This Section and Section 5
10 take effect upon becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 80/4.34

4 5 ILCS 80/4.39

5 225 ILCS 130/10

6 225 ILCS 130/12 new

7 225 ILCS 130/20

8 225 ILCS 130/30

9 225 ILCS 130/75

10 225 ILCS 130/85

11 225 ILCS 130/110

12 225 ILCS 130/115

13 225 ILCS 130/120

14 225 ILCS 130/150