



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4391

by Rep. Karen May

SYNOPSIS AS INTRODUCED:

New Act	
225 ILCS 25/23	from Ch. 111, par. 2323
225 ILCS 60/22	from Ch. 111, par. 4400-22
225 ILCS 65/15-50	
225 ILCS 80/24	from Ch. 111, par. 3924
225 ILCS 95/21	from Ch. 111, par. 4621
225 ILCS 100/24	from Ch. 111, par. 4824

Creates the Internet Prescribing Prohibition Act. Provides that licensed prescribers may not knowingly prescribe medications for a patient via the Internet, World Wide Web, telephone, facsimile, or any other electronic means unless (1) the patient has been physically examined by the prescriber or has been given a documented patient evaluation, including health history and a physical examination, to establish the diagnosis for which any legend drug is prescribed; (2) the prescriber and the patient have discussed treatment options and the risks and benefits of treatment; and (3) the prescriber has maintained the patient's medical records. Provides that these provisions shall not be construed to prohibit patient care in certain circumstances or to prevent the electronic distribution of a prescription to a pharmacy. Provides that a person convicted of violating these provisions is guilty of a business offense and shall be fined not less than \$1,000 for the first violation and not less than \$2,000 for a second or subsequent violation. Requires a person convicted of violating the Act to be reported to the Division of Professional Regulation of the Department of Financial and Professional Regulation for appropriate licensing board review. Amends the Medical Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Illinois Optometric Practice Act of 1987, the Illinois Dental Practice Act, the Physician Assistant Practice Act of 1987, and the Nursing and Advanced Practice Nursing Act to provide that violation of the Internet Prescribing Prohibition Act constitutes grounds for disciplinary action under those Acts.

LRB095 16910 KBJ 42954 b

1 AN ACT concerning public health.

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

4 Section 1. Short title. This Act may be cited as the
5 Internet Prescribing Prohibition Act.

6 Section 5. Definitions. In this Act:

7 "Division" means the Division of Professional Regulation
8 of the Department of Financial and Professional Regulation.

9 "Licensed prescribers" means physicians licensed to
10 practice medicine in all its branches, licensed podiatrists,
11 therapeutically-certified optometrists, licensed dentists,
12 licensed physician assistants who have been delegated
13 prescriptive authority by a supervising physician, and
14 licensed advanced practice registered nurses who have a written
15 collaborative agreement with a collaborating physician that
16 authorizes prescriptive authority.

17 Section 10. Prohibition on Internet prescribing.

18 (a) Illinois licensed prescribers may not knowingly
19 prescribe controlled substances under the Illinois Controlled
20 Substances Act for a patient via the Internet, World Wide Web,
21 telephone, facsimile, or any other electronic means unless the
22 following elements have been met:

1 (1) the patient has been physically examined by the
2 prescriber or has been given a documented patient
3 evaluation, including health history and a physical
4 examination, to establish the diagnosis for which any
5 legend drug is prescribed;

6 (2) the prescriber and the patient have discussed
7 treatment options and the risks and benefits of treatment;
8 and

9 (3) the prescriber has maintained the patient's
10 medical records.

11 (b) The provisions of subdivision (1) of subsection (a) of
12 this Section are not applicable in an emergency situation. For
13 purposes of this Section, an emergency situation means those
14 situations in which the prescriber determines that the
15 immediate administration of the medication is necessary for the
16 proper treatment of the patient and it is not reasonably
17 possible for the prescriber to comply with the provisions of
18 this Section prior to providing such prescription.

19 (c) The provisions of subdivision (1) of subsection (a) of
20 this Section shall not be construed to prohibit patient care in
21 the following circumstances:

22 (1) in consultation with another health care
23 professional who has an ongoing relationship with the
24 patient and who has agreed to supervise the patient's
25 treatment, including the use of any prescribed
26 medications;

1 (2) on-call or cross-coverage situations in which a
2 prescriber provides care for another prescriber's
3 patients;

4 (3) admission orders for a newly hospitalized patient;

5 (4) orders for patients in long-term care facilities or
6 hospitals recommended by registered professional nurses;

7 (5) continuing medications on a short-term basis for a
8 new patient prior to the first appointment; and

9 (6) a prescriber or his or her designee from
10 electronically or telephonically prescribing medication
11 for a patient with an existing physician-patient
12 relationship with the prescriber.

13 (d) Nothing in this Section shall be construed to prevent
14 the electronic distribution of a prescription to a pharmacy.

15 Section 15. Penalties. A person convicted of violating this
16 Act is guilty of a business offense and shall be fined not less
17 than \$1,000 for the first violation and not less than \$2,000
18 for a second or subsequent violation. A person convicted of
19 violating this Act must be reported to the Division for
20 appropriate licensing board review.

21 Section 90. The Illinois Dental Practice Act is amended by
22 changing Section 23 as follows:

23 (225 ILCS 25/23) (from Ch. 111, par. 2323)

1 (Section scheduled to be repealed on January 1, 2016)

2 Sec. 23. Refusal, revocation or suspension of dental
3 licenses. The Department may refuse to issue or renew, or may
4 revoke, suspend, place on probation, reprimand or take other
5 disciplinary action as the Department may deem proper,
6 including fines not to exceed \$10,000 per violation, with
7 regard to any license for any one or any combination of the
8 following causes:

9 1. Fraud in procuring the license.

10 2. Habitual intoxication or addiction to the use of
11 drugs.

12 3. Willful or repeated violations of the rules of the
13 Department of Public Health or Department of Nuclear
14 Safety.

15 4. Acceptance of a fee for service as a witness,
16 without the knowledge of the court, in addition to the fee
17 allowed by the court.

18 5. Division of fees or agreeing to split or divide the
19 fees received for dental services with any person for
20 bringing or referring a patient, except in regard to
21 referral services as provided for under Section 45, or
22 assisting in the care or treatment of a patient, without
23 the knowledge of the patient or his legal representative.

24 6. Employing, procuring, inducing, aiding or abetting
25 a person not licensed or registered as a dentist to engage
26 in the practice of dentistry. The person practiced upon is

1 not an accomplice, employer, procurer, inducer, aider, or
2 abetter within the meaning of this Act.

3 7. Making any misrepresentations or false promises,
4 directly or indirectly, to influence, persuade or induce
5 dental patronage.

6 8. Professional connection or association with or
7 lending his name to another for the illegal practice of
8 dentistry by another, or professional connection or
9 association with any person, firm or corporation holding
10 himself, herself, themselves, or itself out in any manner
11 contrary to this Act.

12 9. Obtaining or seeking to obtain practice, money, or
13 any other things of value by false or fraudulent
14 representations, but not limited to, engaging in such
15 fraudulent practice to defraud the medical assistance
16 program of the Department of Healthcare and Family Services
17 (formerly Department of Public Aid).

18 10. Practicing under a name other than his or her own.

19 11. Engaging in dishonorable, unethical, or
20 unprofessional conduct of a character likely to deceive,
21 defraud, or harm the public.

22 12. Conviction in this or another State of any crime
23 which is a felony under the laws of this State or
24 conviction of a felony in a federal court, conviction of a
25 misdemeanor, an essential element of which is dishonesty,
26 or conviction of any crime which is directly related to the

1 practice of dentistry or dental hygiene.

2 13. Permitting a dental hygienist, dental assistant or
3 other person under his or her supervision to perform any
4 operation not authorized by this Act.

5 14. Permitting more than 4 dental hygienists to be
6 employed under his supervision at any one time.

7 15. A violation of any provision of this Act or any
8 rules promulgated under this Act.

9 16. Taking impressions for or using the services of any
10 person, firm or corporation violating this Act.

11 17. Violating any provision of Section 45 relating to
12 advertising.

13 18. Discipline by another U.S. jurisdiction or foreign
14 nation, if at least one of the grounds for the discipline
15 is the same or substantially equivalent to those set forth
16 within this Act.

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

20 20. Gross or repeated malpractice resulting in injury
21 or death of a patient.

22 21. The use or prescription for use of narcotics or
23 controlled substances or designated products as listed in
24 the Illinois Controlled Substances Act, in any way other
25 than for therapeutic purposes.

26 22. Willfully making or filing false records or reports

1 in his practice as a dentist, including, but not limited
2 to, false records to support claims against the dental
3 assistance program of the Department of Healthcare and
4 Family Services (formerly Illinois Department of Public
5 Aid).

6 23. Professional incompetence as manifested by poor
7 standards of care.

8 24. Physical or mental illness, including, but not
9 limited to, deterioration through the aging process, or
10 loss of motor skills which results in a dentist's inability
11 to practice dentistry with reasonable judgment, skill or
12 safety. In enforcing this paragraph, the Department may
13 compel a person licensed to practice under this Act to
14 submit to a mental or physical examination pursuant to the
15 terms and conditions of Section 23b.

16 25. Repeated irregularities in billing a third party
17 for services rendered to a patient. For purposes of this
18 paragraph 25, "irregularities in billing" shall include:

19 (a) Reporting excessive charges for the purpose of
20 obtaining a total payment in excess of that usually
21 received by the dentist for the services rendered.

22 (b) Reporting charges for services not rendered.

23 (c) Incorrectly reporting services rendered for
24 the purpose of obtaining payment not earned.

25 26. Continuing the active practice of dentistry while
26 knowingly having any infectious, communicable, or

1 contagious disease proscribed by rule or regulation of the
2 Department.

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

9 28. Violating the Health Care Worker Self-Referral
10 Act.

11 29. Abandonment of a patient.

12 30. Mental incompetency as declared by a court of
13 competent jurisdiction.

14 31. Violating any provision of the Internet
15 Prescribing Prohibition Act.

16 All proceedings to suspend, revoke, place on probationary
17 status, or take any other disciplinary action as the Department
18 may deem proper, with regard to a license on any of the
19 foregoing grounds, must be commenced within 3 years after
20 receipt by the Department of a complaint alleging the
21 commission of or notice of the conviction order for any of the
22 acts described herein. Except for fraud in procuring a license,
23 no action shall be commenced more than 5 years after the date
24 of the incident or act alleged to have violated this Section.
25 The time during which the holder of the license was outside the
26 State of Illinois shall not be included within any period of

1 time limiting the commencement of disciplinary action by the
2 Department.

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

10 (Source: P.A. 94-1014, eff. 7-7-06.)

11 Section 95. The Medical Practice Act of 1987 is amended by
12 changing Section 22 as follows:

13 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

14 (Section scheduled to be repealed on December 31, 2008)

15 Sec. 22. Disciplinary action.

16 (A) The Department may revoke, suspend, place on
17 probationary status, refuse to renew, or take any other
18 disciplinary action as the Department may deem proper with
19 regard to the license or visiting professor permit of any
20 person issued under this Act to practice medicine, or to treat
21 human ailments without the use of drugs and without operative
22 surgery upon any of the following grounds:

23 (1) Performance of an elective abortion in any place,
24 locale, facility, or institution other than:

1 (a) a facility licensed pursuant to the Ambulatory
2 Surgical Treatment Center Act;

3 (b) an institution licensed under the Hospital
4 Licensing Act; or

5 (c) an ambulatory surgical treatment center or
6 hospitalization or care facility maintained by the
7 State or any agency thereof, where such department or
8 agency has authority under law to establish and enforce
9 standards for the ambulatory surgical treatment
10 centers, hospitalization, or care facilities under its
11 management and control; or

12 (d) ambulatory surgical treatment centers,
13 hospitalization or care facilities maintained by the
14 Federal Government; or

15 (e) ambulatory surgical treatment centers,
16 hospitalization or care facilities maintained by any
17 university or college established under the laws of
18 this State and supported principally by public funds
19 raised by taxation.

20 (2) Performance of an abortion procedure in a wilful
21 and wanton manner on a woman who was not pregnant at the
22 time the abortion procedure was performed.

23 (3) The conviction of a felony in this or any other
24 jurisdiction, except as otherwise provided in subsection B
25 of this Section, whether or not related to practice under
26 this Act, or the entry of a guilty or nolo contendere plea

1 to a felony charge.

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

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

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

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

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

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

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

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

24 (12) Disciplinary action of another state or
25 jurisdiction against a license or other authorization to
26 practice as a medical doctor, doctor of osteopathy, doctor

1 of osteopathic medicine or doctor of chiropractic, a
2 certified copy of the record of the action taken by the
3 other state or jurisdiction being prima facie evidence
4 thereof.

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

10 (14) Dividing with anyone other than physicians with
11 whom the licensee practices in a partnership, Professional
12 Association, limited liability company, or Medical or
13 Professional Corporation any fee, commission, rebate or
14 other form of compensation for any professional services
15 not actually and personally rendered. Nothing contained in
16 this subsection prohibits persons holding valid and
17 current licenses under this Act from practicing medicine in
18 partnership under a partnership agreement, including a
19 limited liability partnership, in a limited liability
20 company under the Limited Liability Company Act, in a
21 corporation authorized by the Medical Corporation Act, as
22 an association authorized by the Professional Association
23 Act, or in a corporation under the Professional Corporation
24 Act or from pooling, sharing, dividing or apportioning the
25 fees and monies received by them or by the partnership,
26 corporation or association in accordance with the

1 partnership agreement or the policies of the Board of
2 Directors of the corporation or association. Nothing
3 contained in this subsection prohibits 2 or more
4 corporations authorized by the Medical Corporation Act,
5 from forming a partnership or joint venture of such
6 corporations, and providing medical, surgical and
7 scientific research and knowledge by employees of these
8 corporations if such employees are licensed under this Act,
9 or from pooling, sharing, dividing, or apportioning the
10 fees and monies received by the partnership or joint
11 venture in accordance with the partnership or joint venture
12 agreement. Nothing contained in this subsection shall
13 abrogate the right of 2 or more persons, holding valid and
14 current licenses under this Act, to each receive adequate
15 compensation for concurrently rendering professional
16 services to a patient and divide a fee; provided, the
17 patient has full knowledge of the division, and, provided,
18 that the division is made in proportion to the services
19 performed and responsibility assumed by each.

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

25 (16) Abandonment of a patient.

26 (17) Prescribing, selling, administering,

1 distributing, giving or self-administering any drug
2 classified as a controlled substance (designated product)
3 or narcotic for other than medically accepted therapeutic
4 purposes.

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

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

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

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

23 (22) Wilful omission to file or record, or wilfully
24 impeding the filing or recording, or inducing another
25 person to omit to file or record, medical reports as
26 required by law, or wilfully failing to report an instance

1 of suspected abuse or neglect as required by law.

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

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

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

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

26 (28) Physical illness, including, but not limited to,

1 deterioration through the aging process, or loss of motor
2 skill which results in a physician's inability to practice
3 under this Act with reasonable judgment, skill or safety.

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

6 (30) Wilfully or negligently violating the
7 confidentiality between physician and patient except as
8 required by law.

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

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

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

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

1 for action as defined in this Section.

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

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

17 (37) Failure to transfer copies of medical records as
18 required by law.

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

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

26 (40) Willful failure to provide notice when notice is

1 required under the Parental Notice of Abortion Act of 1995.

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

4 (42) Entering into an excessive number of written
5 collaborative agreements with licensed advanced practice
6 nurses resulting in an inability to adequately collaborate
7 and provide medical direction.

8 (43) Repeated failure to adequately collaborate with
9 or provide medical direction to a licensed advanced
10 practice nurse.

11 (44) Violating any provision of the Internet
12 Prescribing Prohibition Act.

13 Except for actions involving the ground numbered (26), all
14 proceedings to suspend, revoke, place on probationary status,
15 or take any other disciplinary action as the Department may
16 deem proper, with regard to a license on any of the foregoing
17 grounds, must be commenced within 5 years next after receipt by
18 the Department of a complaint alleging the commission of or
19 notice of the conviction order for any of the acts described
20 herein. Except for the grounds numbered (8), (9), (26), and
21 (29), no action shall be commenced more than 10 years after the
22 date of the incident or act alleged to have violated this
23 Section. For actions involving the ground numbered (26), a
24 pattern of practice or other behavior includes all incidents
25 alleged to be part of the pattern of practice or other behavior
26 that occurred or a report pursuant to Section 23 of this Act

1 received within the 10-year period preceding the filing of the
2 complaint. In the event of the settlement of any claim or cause
3 of action in favor of the claimant or the reduction to final
4 judgment of any civil action in favor of the plaintiff, such
5 claim, cause of action or civil action being grounded on the
6 allegation that a person licensed under this Act was negligent
7 in providing care, the Department shall have an additional
8 period of 2 years from the date of notification to the
9 Department under Section 23 of this Act of such settlement or
10 final judgment in which to investigate and commence formal
11 disciplinary proceedings under Section 36 of this Act, except
12 as otherwise provided by law. The time during which the holder
13 of the license was outside the State of Illinois shall not be
14 included within any period of time limiting the commencement of
15 disciplinary action by the Department.

16 The entry of an order or judgment by any circuit court
17 establishing that any person holding a license under this Act
18 is a person in need of mental treatment operates as a
19 suspension of that license. That person may resume their
20 practice only upon the entry of a Departmental order based upon
21 a finding by the Medical Disciplinary Board that they have been
22 determined to be recovered from mental illness by the court and
23 upon the Disciplinary Board's recommendation that they be
24 permitted to resume their practice.

25 The Department may refuse to issue or take disciplinary
26 action concerning the license of any person who fails to file a

1 return, or to pay the tax, penalty or interest shown in a filed
2 return, or to pay any final assessment of tax, penalty or
3 interest, as required by any tax Act administered by the
4 Illinois Department of Revenue, until such time as the
5 requirements of any such tax Act are satisfied as determined by
6 the Illinois Department of Revenue.

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

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

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

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

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

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

24 In enforcing this Section, the Medical Disciplinary Board,
25 upon a showing of a possible violation, may compel any
26 individual licensed to practice under this Act, or who has

1 applied for licensure or a permit pursuant to this Act, to
2 submit to a mental or physical examination, or both, as
3 required by and at the expense of the Department. The examining
4 physician or physicians shall be those specifically designated
5 by the Disciplinary Board. The Medical Disciplinary Board or
6 the Department may order the examining physician to present
7 testimony concerning this mental or physical examination of the
8 licensee or applicant. No information shall be excluded by
9 reason of any common law or statutory privilege relating to
10 communication between the licensee or applicant and the
11 examining physician. The individual to be examined may have, at
12 his or her own expense, another physician of his or her choice
13 present during all aspects of the examination. Failure of any
14 individual to submit to mental or physical examination, when
15 directed, shall be grounds for suspension of his or her license
16 until such time as the individual submits to the examination if
17 the Disciplinary Board finds, after notice and hearing, that
18 the refusal to submit to the examination was without reasonable
19 cause. If the Disciplinary Board finds a physician unable to
20 practice because of the reasons set forth in this Section, the
21 Disciplinary Board shall require such physician to submit to
22 care, counseling, or treatment by physicians approved or
23 designated by the Disciplinary Board, as a condition for
24 continued, reinstated, or renewed licensure to practice. Any
25 physician, whose license was granted pursuant to Sections 9,
26 17, or 19 of this Act, or, continued, reinstated, renewed,

1 disciplined or supervised, subject to such terms, conditions or
2 restrictions who shall fail to comply with such terms,
3 conditions or restrictions, or to complete a required program
4 of care, counseling, or treatment, as determined by the Chief
5 Medical Coordinator or Deputy Medical Coordinators, shall be
6 referred to the Secretary for a determination as to whether the
7 licensee shall have their license suspended immediately,
8 pending a hearing by the Disciplinary Board. In instances in
9 which the Secretary immediately suspends a license under this
10 Section, a hearing upon such person's license must be convened
11 by the Disciplinary Board within 15 days after such suspension
12 and completed without appreciable delay. The Disciplinary
13 Board shall have the authority to review the subject
14 physician's record of treatment and counseling regarding the
15 impairment, to the extent permitted by applicable federal
16 statutes and regulations safeguarding the confidentiality of
17 medical records.

18 An individual licensed under this Act, affected under this
19 Section, shall be afforded an opportunity to demonstrate to the
20 Disciplinary Board that they can resume practice in compliance
21 with acceptable and prevailing standards under the provisions
22 of their license.

23 The Department may promulgate rules for the imposition of
24 fines in disciplinary cases, not to exceed \$10,000 for each
25 violation of this Act. Fines may be imposed in conjunction with
26 other forms of disciplinary action, but shall not be the

1 exclusive disposition of any disciplinary action arising out of
2 conduct resulting in death or injury to a patient. Any funds
3 collected from such fines shall be deposited in the Medical
4 Disciplinary Fund.

5 (B) The Department shall revoke the license or visiting
6 permit of any person issued under this Act to practice medicine
7 or to treat human ailments without the use of drugs and without
8 operative surgery, who has been convicted a second time of
9 committing any felony under the Illinois Controlled Substances
10 Act or the Methamphetamine Control and Community Protection
11 Act, or who has been convicted a second time of committing a
12 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois
13 Public Aid Code. A person whose license or visiting permit is
14 revoked under this subsection B of Section 22 of this Act shall
15 be prohibited from practicing medicine or treating human
16 ailments without the use of drugs and without operative
17 surgery.

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

1 second or subsequent violation, a civil penalty of \$5,000.
2 (Source: P.A. 94-556, eff. 9-11-05; 94-677, eff. 8-25-05;
3 95-331, eff. 8-21-07.)

4 Section 100. The Nursing and Advanced Practice Nursing Act
5 is amended by changing Section 15-50 as follows:

6 (225 ILCS 65/15-50)

7 (Section scheduled to be repealed on January 1, 2008)

8 Sec. 15-50. Grounds for disciplinary action.

9 (a) The Department may, upon the recommendation of the APN
10 Board, refuse to issue or to renew, or may revoke, suspend,
11 place on probation, censure or reprimand, or take other
12 disciplinary action as the Department may deem appropriate with
13 regard to a license issued under this Title, including the
14 issuance of fines not to exceed \$5,000 for each violation, for
15 any one or combination of the grounds for discipline set forth
16 in Section 10-45 of this Act or for any one or combination of
17 the following causes:

18 (1) Gross negligence in the practice of advanced
19 practice nursing.

20 (2) Exceeding the terms of a collaborative agreement or
21 the prescriptive authority delegated to him or her by his
22 or her collaborating physician or alternate collaborating
23 physician in guidelines established under a written
24 collaborative agreement.

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

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

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

12 (6) Violating State or federal laws or regulations
13 relating to controlled substances.

14 (7) Willfully or negligently violating the
15 confidentiality between advanced practice nurse,
16 collaborating physician, and patient, except as required
17 by law.

18 (8) Failure of a licensee to report to the Department
19 any adverse final action taken against such licensee by
20 another licensing jurisdiction (any other jurisdiction of
21 the United States or any foreign state or country), any
22 peer review body, any health care institution, a
23 professional or nursing or advanced practice nursing
24 society or association, a governmental agency, a law
25 enforcement agency, or a court or a liability claim
26 relating to acts or conduct similar to acts or conduct that

1 would constitute grounds for action as defined in this
2 Section.

3 (9) Failure of a licensee to report to the Department
4 surrender by the licensee of a license or authorization to
5 practice nursing or advanced practice nursing in another
6 state or jurisdiction, or current surrender by the licensee
7 of membership on any nursing staff or organized health care
8 professional staff or in any nursing, advanced practice
9 nurse, or professional association or society while under
10 disciplinary investigation by any of those authorities or
11 bodies for acts or conduct similar to acts or conduct that
12 would constitute grounds for action as defined in this
13 Section.

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

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

18 (12) Any violation of any Section of this Title or Act.

19 (13) Violating any provision of the Internet
20 Prescribing Prohibition Act.

21 When the Department has received written reports
22 concerning incidents required to be reported in items (8) and
23 (9), the licensee's failure to report the incident to the
24 Department under those items shall not be the sole grounds for
25 disciplinary action.

26 (b) The Department may refuse to issue or may suspend the

1 license of any person who fails to file a return, to pay the
2 tax, penalty, or interest shown in a filed return, or to pay
3 any final assessment of the tax, penalty, or interest as
4 required by a tax Act administered by the Department of
5 Revenue, until the requirements of the tax Act are satisfied.

6 (c) In enforcing this Section, the Department or APN Board,
7 upon a showing of a possible violation, may compel an
8 individual licensed to practice under this Title, or who has
9 applied for licensure under this Title, to submit to a mental
10 or physical examination or both, as required by and at the
11 expense of the Department. The Department or APN Board may
12 order the examining physician to present testimony concerning
13 the mental or physical examination of the licensee or
14 applicant. No information shall be excluded by reason of any
15 common law or statutory privilege relating to communications
16 between the licensee or applicant and the examining physician.
17 The examining physician shall be specifically designated by the
18 APN Board or Department. The individual to be examined may
19 have, at his or her own expense, another physician of his or
20 her choice present during all aspects of this examination.
21 Failure of an individual to submit to a mental or physical
22 examination when directed shall be grounds for suspension of
23 his or her license until the individual submits to the
24 examination if the Department finds, after notice and hearing,
25 that the refusal to submit to the examination was without
26 reasonable cause.

1 If the Department or APN Board finds an individual unable
2 to practice because of the reasons set forth in this Section,
3 the Department or APN Board may require that individual to
4 submit to care, counseling, or treatment by physicians approved
5 or designated by the Department or APN Board as a condition,
6 term, or restriction for continued, reinstated, or renewed
7 licensure to practice; or, in lieu of care, counseling, or
8 treatment, the Department may file, or the APN Board may
9 recommend to the Department to file, a complaint to immediately
10 suspend, revoke, or otherwise discipline the license of the
11 individual. An individual whose license was granted,
12 continued, reinstated, renewed, disciplined or supervised
13 subject to terms, conditions, or restrictions, and who fails to
14 comply with the terms, conditions, or restrictions, shall be
15 referred to the Director for a determination as to whether the
16 individual shall have his or her license suspended immediately,
17 pending a hearing by the Department.

18 In instances in which the Director immediately suspends a
19 person's license under this Section, a hearing on that person's
20 license shall be convened by the Department within 15 days
21 after the suspension and shall be completed without appreciable
22 delay. The Department and APN Board shall have the authority to
23 review the subject individual's record of treatment and
24 counseling regarding the impairment to the extent permitted by
25 applicable federal statutes and regulations safeguarding the
26 confidentiality of medical records.

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

6 (Source: P.A. 90-742, eff. 8-13-98.)

7 Section 105. The Illinois Optometric Practice Act of 1987
8 is amended by changing Section 24 as follows:

9 (225 ILCS 80/24) (from Ch. 111, par. 3924)

10 (Section scheduled to be repealed on January 1, 2017)

11 Sec. 24. Grounds for disciplinary action.

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

18 (1) Violations of this Act, or of the rules promulgated
19 hereunder.

20 (2) Conviction of or entry of a plea of guilty to any
21 crime under the laws of any U.S. jurisdiction thereof that
22 is a felony or that is a misdemeanor of which an essential
23 element is dishonesty, or any crime that is directly
24 related to the practice of the profession.

1 (3) Making any misrepresentation for the purpose of
2 obtaining a license.

3 (4) Professional incompetence or gross negligence in
4 the practice of optometry.

5 (5) Gross malpractice, prima facie evidence of which
6 may be a conviction or judgment of malpractice in any court
7 of competent jurisdiction.

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

10 (7) Failing, within 60 days, to provide information in
11 response to a written request made by the Department that
12 has been sent by certified or registered mail to the
13 licensee's last known address.

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

17 (9) Habitual or excessive use or addiction to alcohol,
18 narcotics, stimulants or any other chemical agent or drug
19 that results in the inability to practice with reasonable
20 judgment, skill, or safety.

21 (10) Discipline by another U.S. jurisdiction or
22 foreign nation, if at least one of the grounds for the
23 discipline is the same or substantially equivalent to those
24 set forth herein.

25 (11) Directly or indirectly giving to or receiving from
26 any person, firm, corporation, partnership, or association

1 any fee, commission, rebate, or other form of compensation
2 for any professional services not actually or personally
3 rendered. This shall not be deemed to include (i) rent or
4 other remunerations paid to an individual, partnership, or
5 corporation by an optometrist for the lease, rental, or use
6 of space, owned or controlled, by the individual,
7 partnership, corporation or association, and (ii) the
8 division of fees between an optometrist and related
9 professional service providers with whom the optometrist
10 practices in a professional corporation organized under
11 Section 3.6 of the Professional Service Corporation Act.

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

15 (13) Abandonment of a patient.

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

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

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

1 (17) Solicitation of professional services other than
2 permitted advertising.

3 (18) Failure to provide a patient with a copy of his or
4 her record or prescription in accordance with federal law.

5 (19) Conviction by any court of competent
6 jurisdiction, either within or without this State, of any
7 violation of any law governing the practice of optometry,
8 conviction in this or another State of any crime that is a
9 felony under the laws of this State or conviction of a
10 felony in a federal court, if the Department determines,
11 after investigation, that such person has not been
12 sufficiently rehabilitated to warrant the public trust.

13 (20) A finding that licensure has been applied for or
14 obtained by fraudulent means.

15 (21) Continued practice by a person knowingly having an
16 infectious or contagious disease.

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

24 (23) Practicing or attempting to practice under a name
25 other than the full name as shown on his or her license.

26 (24) Immoral conduct in the commission of any act, such

1 as sexual abuse, sexual misconduct or sexual exploitation,
2 related to the licensee's practice.

3 (25) Maintaining a professional relationship with any
4 person, firm, or corporation when the optometrist knows, or
5 should know, that such person, firm, or corporation is
6 violating this Act.

7 (26) Promotion of the sale of drugs, devices,
8 appliances or goods provided for a client or patient in
9 such manner as to exploit the patient or client for
10 financial gain of the licensee.

11 (27) Using the title "Doctor" or its abbreviation
12 without further qualifying that title or abbreviation with
13 the word "optometry" or "optometrist".

14 (28) Use by a licensed optometrist of the word
15 "infirmary", "hospital", "school", "university", in
16 English or any other language, in connection with the place
17 where optometry may be practiced or demonstrated.

18 (29) Continuance of an optometrist in the employ of any
19 person, firm or corporation, or as an assistant to any
20 optometrist or optometrists, directly or indirectly, after
21 his or her employer or superior has been found guilty of
22 violating or has been enjoined from violating the laws of
23 the State of Illinois relating to the practice of
24 optometry, when the employer or superior persists in that
25 violation.

26 (30) The performance of optometric service in

1 conjunction with a scheme or plan with another person, firm
2 or corporation known to be advertising in a manner contrary
3 to this Act or otherwise violating the laws of the State of
4 Illinois concerning the practice of optometry.

5 (31) Failure to provide satisfactory proof of having
6 participated in approved continuing education programs as
7 determined by the Board and approved by the Secretary.
8 Exceptions for extreme hardships are to be defined by the
9 rules of the Department.

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

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

24 (34) In the absence of good reasons to the contrary,
25 failure to perform a minimum eye examination as required by
26 the rules of the Department.

1 (35) Violation of the Health Care Worker Self-Referral
2 Act.

3 (36) Violating any provision of the Internet
4 Prescribing Prohibition Act.

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

12 (a-5) In enforcing this Section, the Board upon a showing
13 of a possible violation, may compel any individual licensed to
14 practice under this Act, or who has applied for licensure or
15 certification pursuant to this Act, to submit to a mental or
16 physical examination, or both, as required by and at the
17 expense of the Department. The examining physicians or clinical
18 psychologists shall be those specifically designated by the
19 Board. The Board or the Department may order the examining
20 physician or clinical psychologist to present testimony
21 concerning this mental or physical examination of the licensee
22 or applicant. No information shall be excluded by reason of any
23 common law or statutory privilege relating to communications
24 between the licensee or applicant and the examining physician
25 or clinical psychologist. Eye examinations may be provided by a
26 licensed optometrist. The individual to be examined may have,

1 at his or her own expense, another physician of his or her
2 choice present during all aspects of the examination. Failure
3 of any individual to submit to a mental or physical
4 examination, when directed, shall be grounds for suspension of
5 a license until such time as the individual submits to the
6 examination if the Board finds, after notice and hearing, that
7 the refusal to submit to the examination was without reasonable
8 cause.

9 If the Board finds an individual unable to practice because
10 of the reasons set forth in this Section, the Board shall
11 require such individual to submit to care, counseling, or
12 treatment by physicians or clinical psychologists approved or
13 designated by the Board, as a condition, term, or restriction
14 for continued, reinstated, or renewed licensure to practice, or
15 in lieu of care, counseling, or treatment, the Board may
16 recommend to the Department to file a complaint to immediately
17 suspend, revoke, or otherwise discipline the license of the
18 individual, or the Board may recommend to the Department to
19 file a complaint to suspend, revoke, or otherwise discipline
20 the license of the individual. Any individual whose license was
21 granted pursuant to this Act, or continued, reinstated,
22 renewed, disciplined, or supervised, subject to such
23 conditions, terms, or restrictions, who shall fail to comply
24 with such conditions, terms, or restrictions, shall be referred
25 to the Secretary for a determination as to whether the
26 individual shall have his or her license suspended immediately,

1 pending a hearing by the Board.

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

11 (Source: P.A. 94-787, eff. 5-19-06.)

12 Section 110. The Physician Assistant Practice Act of 1987
13 is amended by changing Section 21 as follows:

14 (225 ILCS 95/21) (from Ch. 111, par. 4621)

15 (Section scheduled to be repealed on January 1, 2018)

16 Sec. 21. Grounds for disciplinary action.

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

24 (1) Material misstatement in furnishing information to

1 the Department.

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

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

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

12 (5) Professional incompetence.

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

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

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

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

24 (10) Discipline by another U.S. jurisdiction or
25 foreign nation, if at least one of the grounds for
26 discipline is the same or substantially equivalent to those

1 set forth in this Section.

2 (11) Directly or indirectly giving to or receiving from
3 any person, firm, corporation, partnership, or association
4 any fee, commission, rebate or other form of compensation
5 for any professional services not actually or personally
6 rendered.

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

10 (13) Abandonment of a patient.

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

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

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

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

1 neglected child as defined in the Abused and Neglected
2 Child Reporting Act.

3 (18) (Blank).

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

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

9 (21) Exceeding the authority delegated to him or her by
10 his or her supervising physician in guidelines established
11 by the physician/physician assistant team.

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

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

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

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

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

25 (27) Prescribing, selling, administering,
26 distributing, giving, or self-administering a drug

1 classified as a controlled substance (designated product)
2 or narcotic for other than medically-accepted therapeutic
3 purposes.

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

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

10 (30) Violating State or federal laws or regulations
11 relating to controlled substances or other legend drugs.

12 (31) Exceeding the limited prescriptive authority
13 delegated by the supervising physician or violating the
14 written guidelines delegating that authority.

15 (32) Practicing without providing to the Department a
16 notice of supervision or delegation of prescriptive
17 authority.

18 (33) Violating any provision of the Internet
19 Prescribing Prohibition Act.

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

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

11 (d) In enforcing this Section, the Department upon a
12 showing of a possible violation may compel an individual
13 licensed to practice under this Act, or who has applied for
14 licensure under this Act, to submit to a mental or physical
15 examination, or both, as required by and at the expense of the
16 Department. The Department may order the examining physician to
17 present testimony concerning the mental or physical
18 examination of the licensee or applicant. No information shall
19 be excluded by reason of any common law or statutory privilege
20 relating to communications between the licensee or applicant
21 and the examining physician. The examining physicians shall be
22 specifically designated by the Department. The individual to be
23 examined may have, at his or her own expense, another physician
24 of his or her choice present during all aspects of this
25 examination. Failure of an individual to submit to a mental or
26 physical examination, when directed, shall be grounds for

1 suspension of his or her license until the individual submits
2 to the examination if the Department finds, after notice and
3 hearing, that the refusal to submit to the examination was
4 without reasonable cause.

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

21 In instances in which the Secretary immediately suspends a
22 person's license under this Section, a hearing on that person's
23 license must be convened by the Department within 30 days after
24 the suspension and completed without appreciable delay. The
25 Department shall have the authority to review the subject
26 individual's record of treatment and counseling regarding the

1 impairment to the extent permitted by applicable federal
2 statutes and regulations safeguarding the confidentiality of
3 medical records.

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

9 (Source: P.A. 95-703, eff. 12-31-07.)

10 Section 115. The Podiatric Medical Practice Act of 1987 is
11 amended by changing Section 24 as follows:

12 (225 ILCS 100/24) (from Ch. 111, par. 4824)

13 (Section scheduled to be repealed on January 1, 2018)

14 Sec. 24. Grounds for disciplinary action. The Department
15 may refuse to issue, may refuse to renew, may refuse to
16 restore, may suspend, or may revoke any license, or may place
17 on probation, reprimand or take other disciplinary or
18 non-disciplinary action as the Department may deem proper,
19 including fines not to exceed \$10,000 for each violation upon
20 anyone licensed under this Act for any of the following
21 reasons:

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

24 (2) Violations of this Act, or of the rules or

1 regulations promulgated hereunder.

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

8 (4) Making any misrepresentation for the purpose of
9 obtaining licenses, or violating any provision of this Act
10 or the rules promulgated thereunder pertaining to
11 advertising.

12 (5) Professional incompetence.

13 (6) Gross or repeated malpractice or negligence.

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

16 (8) Failing, within 30 days, to provide information in
17 response to a written request made by the Department.

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

21 (10) Habitual or excessive use of alcohol, narcotics,
22 stimulants or other chemical agent or drug that results in
23 the inability to practice podiatric medicine with
24 reasonable judgment, skill or safety.

25 (11) Discipline by another United States jurisdiction
26 if at least one of the grounds for the discipline is the

1 same or substantially equivalent to those set forth in this
2 Section.

3 (12) Directly or indirectly giving to or receiving from
4 any person, firm, corporation, partnership or association
5 any fee, commission, rebate or other form of compensation
6 for any professional services not actually or personally
7 rendered. This shall not be deemed to include rent or other
8 remunerations paid to an individual, partnership, or
9 corporation, by a licensee, for the lease, rental or use of
10 space, owned or controlled, by the individual, partnership
11 or corporation.

12 (13) A finding by the Podiatric Medical Licensing Board
13 that the licensee, after having his or her license placed
14 on probationary status, has violated the terms of
15 probation.

16 (14) Abandonment of a patient.

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

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

23 (17) Physical illness, mental illness, or other
24 impairment, including but not limited to, deterioration
25 through the aging process, or loss of motor skill that
26 results in the inability to practice the profession with

1 reasonable judgment, skill or safety.

2 (18) Solicitation of professional services other than
3 permitted advertising.

4 (19) The determination by a circuit court that a
5 licensed podiatric physician is subject to involuntary
6 admission or judicial admission as provided in the Mental
7 Health and Developmental Disabilities Code operates as an
8 automatic suspension. Such suspension will end only upon a
9 finding by a court that the patient is no longer subject to
10 involuntary admission or judicial admission and issues an
11 order so finding and discharging the patient; and upon the
12 recommendation of the Podiatric Medical Licensing Board to
13 the Secretary that the licensee be allowed to resume his or
14 her practice.

15 (20) Holding oneself out to treat human ailments under
16 any name other than his or her own, or the impersonation of
17 any other physician.

18 (21) Revocation or suspension or other action taken
19 with respect to a podiatric medical license in another
20 jurisdiction that would constitute disciplinary action
21 under this Act.

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

26 (23) Gross, willful, and continued overcharging for

1 professional services including filing false statements
2 for collection of fees for those services, including, but
3 not limited to, filing false statement for collection of
4 monies for services not rendered from the medical
5 assistance program of the Department of Healthcare and
6 Family Services (formerly Department of Public Aid) under
7 the Illinois Public Aid Code or other private or public
8 third party payor.

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

16 (25) Willfully making or filing false records or
17 reports in the practice of podiatric medicine, including,
18 but not limited to, false records to support claims against
19 the medical assistance program of the Department of
20 Healthcare and Family Services (formerly Department of
21 Public Aid) under the Illinois Public Aid Code.

22 (26) (Blank).

23 (27) Immoral conduct in the commission of any act
24 including, sexual abuse, sexual misconduct, or sexual
25 exploitation, related to the licensee's practice.

26 (28) Violation of the Health Care Worker Self-Referral

1 Act.

2 (29) Failure to report to the Department any adverse
3 final action taken against him or her by another licensing
4 jurisdiction (another state or a territory of the United
5 States or a foreign state or country) by a peer review
6 body, by any health care institution, by a professional
7 society or association related to practice under this Act,
8 by a governmental agency, by a law enforcement agency, or
9 by a court for acts or conduct similar to acts or conduct
10 that would constitute grounds for action as defined in this
11 Section.

12 (30) Violating any provision of the Internet Prescribing
13 Prohibition Act.

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

21 Upon receipt of a written communication from the Secretary
22 of Human Services, the Director of Healthcare and Family
23 Services (formerly Director of Public Aid), or the Director of
24 Public Health that continuation of practice of a person
25 licensed under this Act constitutes an immediate danger to the
26 public, the Secretary may immediately suspend the license of

1 such person without a hearing. In instances in which the
2 Secretary immediately suspends a license under this Section, a
3 hearing upon such person's license must be convened by the
4 Board within 15 days after such suspension and completed
5 without appreciable delay, such hearing held to determine
6 whether to recommend to the Secretary that the person's license
7 be revoked, suspended, placed on probationary status or
8 reinstated, or such person be subject to other disciplinary
9 action. In such hearing, the written communication and any
10 other evidence submitted therewith may be introduced as
11 evidence against such person; provided, however, the person or
12 his counsel shall have the opportunity to discredit or impeach
13 such evidence and submit evidence rebutting the same.

14 Except for fraud in procuring a license, all proceedings to
15 suspend, revoke, place on probationary status, or take any
16 other disciplinary action as the Department may deem proper,
17 with regard to a license on any of the foregoing grounds, must
18 be commenced within 5 years after receipt by the Department of
19 a complaint alleging the commission of or notice of the
20 conviction order for any of the acts described in this Section.
21 Except for the grounds set forth in items (8), (9), (26), and
22 (29) of this Section, no action shall be commenced more than 10
23 years after the date of the incident or act alleged to have
24 been a violation of this Section. In the event of the
25 settlement of any claim or cause of action in favor of the
26 claimant or the reduction to final judgment of any civil action

1 in favor of the plaintiff, such claim, cause of action, or
2 civil action being grounded on the allegation that a person
3 licensed under this Act was negligent in providing care, the
4 Department shall have an additional period of 2 years from the
5 date of notification to the Department under Section 26 of this
6 Act of such settlement or final judgment in which to
7 investigate and commence formal disciplinary proceedings under
8 Section 24 of this Act, except as otherwise provided by law.
9 The time during which the holder of the license was outside the
10 State of Illinois shall not be included within any period of
11 time limiting the commencement of disciplinary action by the
12 Department.

13 In enforcing this Section, the Department or Board upon a
14 showing of a possible violation may compel an individual
15 licensed to practice under this Act, or who has applied for
16 licensure under this Act, to submit to a mental or physical
17 examination, or both, as required by and at the expense of the
18 Department. The Department or Board may order the examining
19 physician to present testimony concerning the mental or
20 physical examination of the licensee or applicant. No
21 information shall be excluded by reason of any common law or
22 statutory privilege relating to communications between the
23 licensee or applicant and the examining physician. The
24 examining physicians shall be specifically designated by the
25 Board or Department. The individual to be examined may have, at
26 his or her own expense, another physician of his or her choice

1 present during all aspects of this examination. Failure of an
2 individual to submit to a mental or physical examination, when
3 directed, shall be grounds for suspension of his or her license
4 until the individual submits to the examination if the
5 Department finds, after notice and hearing, that the refusal to
6 submit to the examination was without reasonable cause.

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

24 In instances in which the Secretary immediately suspends a
25 person's license under this Section, a hearing on that person's
26 license must be convened by the Department within 30 days after

1 the suspension and completed without appreciable delay. The
2 Department and Board shall have the authority to review the
3 subject individual's record of treatment and counseling
4 regarding the impairment to the extent permitted by applicable
5 federal statutes and regulations safeguarding the
6 confidentiality of medical records.

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

12 (Source: P.A. 95-235, eff. 8-17-07; 95-331, eff. 8-21-07.)