



Adopted in House Comm. on Mar 17, 2010

09600HB5991ham001

LRB096 17723 ASK 38485 a

1 AMENDMENT TO HOUSE BILL 5991

2 AMENDMENT NO. _____. Amend House Bill 5991 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Podiatric Medical Practice Act of 1987 is
5 amended by changing Section 24 and adding Section 24.2 as
6 follows:

7 (225 ILCS 100/24) (from Ch. 111, par. 4824)

8 (Section scheduled to be repealed on January 1, 2018)

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

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

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

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

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

15 (5) Professional incompetence.

16 (6) Gross or repeated malpractice or negligence.

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

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

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

24 (10) Habitual or excessive use of alcohol, narcotics,
25 stimulants or other chemical agent or drug that results in
26 the inability to practice podiatric medicine with

1 reasonable judgment, skill or safety.

2 (11) Discipline by another United States jurisdiction
3 if at least one of the grounds for the discipline is the
4 same or substantially equivalent to those set forth in this
5 Section.

6 (12) Violation of the prohibition against fee
7 splitting in Section 24.2 of this Act. ~~Directly or~~
8 ~~indirectly giving to or receiving from any person, firm,~~
9 ~~corporation, partnership or association any fee,~~
10 ~~commission, rebate or other form of compensation for any~~
11 ~~professional services not actually or personally rendered.~~
12 ~~This shall not be deemed to include rent or other~~
13 ~~remunerations paid to an individual, partnership, or~~
14 ~~corporation, by a licensee, for the lease, rental or use of~~
15 ~~space, owned or controlled, by the individual, partnership~~
16 ~~or corporation.~~

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

21 (14) Abandonment of a patient.

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

25 (16) Willfully failing to report an instance of
26 suspected child abuse or neglect as required by the Abused

1 and Neglected Child Report Act.

2 (17) Physical illness, mental illness, or other
3 impairment, including but not limited to, deterioration
4 through the aging process, or loss of motor skill that
5 results in the inability to practice the profession with
6 reasonable judgment, skill or safety.

7 (18) Solicitation of professional services other than
8 permitted advertising.

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

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

23 (21) Revocation or suspension or other action taken
24 with respect to a podiatric medical license in another
25 jurisdiction that would constitute disciplinary action
26 under this Act.

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

5 (23) Gross, willful, and continued overcharging for
6 professional services including filing false statements
7 for collection of fees for those services, including, but
8 not limited to, filing false statement for collection of
9 monies for services not rendered from the medical
10 assistance program of the Department of Healthcare and
11 Family Services (formerly Department of Public Aid) under
12 the Illinois Public Aid Code or other private or public
13 third party payor.

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

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

1 (26) (Blank).

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

5 (28) Violation of the Health Care Worker Self-Referral
6 Act.

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

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

24 Upon receipt of a written communication from the Secretary
25 of Human Services, the Director of Healthcare and Family
26 Services (formerly Director of Public Aid), or the Director of

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

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

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

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

1 examining physicians shall be specifically designated by the
2 Board or Department. The individual to be examined may have, at
3 his or her own expense, another physician of his or her choice
4 present during all aspects of this examination. Failure of an
5 individual to submit to a mental or physical examination, when
6 directed, shall be grounds for suspension of his or her license
7 until the individual submits to the examination if the
8 Department finds, after notice and hearing, that the refusal to
9 submit to the examination was without reasonable cause.

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

1 In instances in which the Secretary immediately suspends a
2 person's license under this Section, a hearing on that person's
3 license must be convened by the Department within 30 days after
4 the suspension and completed without appreciable delay. The
5 Department and Board shall have the authority to review the
6 subject individual's record of treatment and counseling
7 regarding the impairment to the extent permitted by applicable
8 federal statutes and regulations safeguarding the
9 confidentiality of medical records.

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

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

16 (225 ILCS 100/24.2 new)

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

18 Sec. 24.2. Prohibition against fee splitting.

19 (a) A licensee under this Act may not directly or
20 indirectly divide, share, or split any professional fee or
21 other form of compensation for professional services with
22 anyone in exchange for a referral or otherwise, other than as
23 provided in this Section 24.2.

24 (b) Nothing contained in this Section abrogates the right
25 of 2 or more licensed health care workers as defined in the

1 Health Care Worker Self-Referral Act to each receive adequate
2 compensation for concurrently rendering services to a patient
3 and to divide the fee for such service, whether or not the
4 worker is employed, provided that the patient has full
5 knowledge of the division and the division is made in
6 proportion to the actual services personally performed and
7 responsibility assumed by each licensee consistent with his or
8 her license, except as prohibited by law.

9 (c) Nothing contained in this Section prohibits a licensee
10 under this Act from practicing podiatry through or within any
11 form of legal entity authorized to conduct business in this
12 State or from pooling, sharing, dividing, or apportioning the
13 professional fees and other revenues in accordance with the
14 agreements and policies of the entity provided:

15 (1) each owner of the entity is licensed under this
16 Act; or

17 (2) the entity is organized under the Professional
18 Services Corporation Act, the Professional Association
19 Act, or the Limited Liability Company Act; or

20 (3) the entity is allowed by Illinois law to provide
21 podiatry services or employ podiatrists such as a licensed
22 hospital or hospital affiliate or licensed ambulatory
23 surgical treatment center owned in full or in part by
24 Illinois-licensed physicians; or

25 (4) the entity is a combination or joint venture of the
26 entities authorized under this subsection (c).

1 (d) Nothing contained in this Section prohibits a licensee
2 under this Act from paying a fair market value fee to any
3 person or entity whose purpose is to perform billing,
4 administrative preparation, or collection services based upon
5 a percentage of professional service fees billed or collected,
6 a flat fee, or any other arrangement that directly or
7 indirectly divides professional fees, for the administrative
8 preparation of the licensee's claims or the collection of the
9 licensee's charges for professional services, provided that:

10 (1) the licensee or the licensee's practice under
11 subsection (c) of this Section at all times controls the
12 amount of fees charged and collected; and

13 (2) all charges collected are paid directly to the
14 licensee or the licensee's practice or are deposited
15 directly into an account in the name of and under the sole
16 control of the licensee or the licensee's practice or
17 deposited into a "Trust Account" by a licensed collection
18 agency in accordance with the requirements of Section 8(c)
19 of the Illinois Collection Agency Act.

20 (e) Nothing contained in this Section prohibits the
21 granting of a security interest in the accounts receivable or
22 fees of a licensee under this Act or the licensee's practice
23 for bona fide advances made to the licensee or licensee's
24 practice provided the licensee retains control and
25 responsibility for the collection of the accounts receivable
26 and fees.

1 (f) Excluding payments that may be made to the owners of or
2 licensees in the licensee's practice under subsection (c) of
3 this Section, a licensee under this Act may not divide, share
4 or split a professional service fee with, or otherwise directly
5 or indirectly pay a percentage of the licensee's professional
6 service fees, revenues or profits to anyone for: (i) the
7 marketing or management of the licensee's practice, (ii)
8 including the licensee or the licensee's practice on any
9 preferred provider list, (iii) allowing the licensee to
10 participate in any network of health care providers, (iv)
11 negotiating fees, charges or terms of service or payment on
12 behalf of the licensee, or (v) including the licensee in a
13 program whereby patients or beneficiaries are provided an
14 incentive to use the services of the licensee.

15 (g) Nothing contained in this Section prohibits the payment
16 of rent or other remunerations paid to an individual,
17 partnership, or corporation by a licensee for the lease,
18 rental, or use of space, owned or controlled by the individual,
19 partnership, corporation, or association.

20 (h) Nothing contained in this Section prohibits the
21 payment, at no more than fair market value, to an individual,
22 partnership, or corporation by a licensee for the use of staff,
23 administrative services, franchise agreements, marketing
24 required by franchise agreements, or equipment owned or
25 controlled by the individual, partnership, or corporation, or
26 the receipt thereof by a licensee."