

1 AN ACT concerning regulation.

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

4 Section 5. The Auction License Act is amended by changing
5 Section 20-15 and by adding Section 20-105 as follows:

6 (225 ILCS 407/20-15)

7 (Section scheduled to be repealed on January 1, 2020)

8 Sec. 20-15. Disciplinary actions; grounds. The Department
9 may refuse to issue or renew or a license, may revoke, suspend,
10 place on probation or administrative supervision, ~~suspend, or~~
11 ~~revoke any license or may~~ reprimand, or take other disciplinary
12 or non-disciplinary action as the Department may deem
13 appropriate, including imposing fines ~~proper, including the~~
14 ~~imposition of fines~~ not to exceed \$10,000 for each violation
15 with regard to any license ~~upon anyone licensed under this Act~~
16 for any one or combination of the following ~~reasons~~:

17 (1) False or fraudulent representation or material
18 misstatement in furnishing information to the Department
19 in obtaining or seeking to obtain a license.

20 (2) Violation of any provision of this Act or the rules
21 promulgated pursuant to this Act.

22 (3) Conviction by plea of guilty or nolo contendere,
23 finding of guilt, jury verdict, or entry of judgment or by

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

13 (4) Being adjudged to be a person under legal
14 disability or subject to involuntary admission or to meet
15 the standard for judicial admission as provided in the
16 Mental Health and Developmental Disabilities Code.

17 (5) Discipline of a licensee by another state, the
18 District of Columbia, a territory of the United States, a
19 foreign nation, a governmental agency, or any other entity
20 authorized to impose discipline if at least one of the
21 grounds for that discipline is the same as or the
22 equivalent to one of the grounds for discipline set forth
23 in this Act or for failing to report to the Department,
24 within 30 days, any adverse final action taken against the
25 licensee by any other licensing jurisdiction, government
26 agency, law enforcement agency, or court, or liability for

1 conduct that would constitute grounds for action as set
2 forth in this Act.

3 (6) Engaging in the practice of auctioneering,
4 conducting an auction, or providing an auction service
5 without a license or after the license was expired,
6 revoked, suspended, or terminated or while the license was
7 inoperative.

8 (7) Attempting to subvert or cheat on the auctioneer
9 exam or any continuing education exam, or aiding or
10 abetting another to do the same.

11 (8) Directly or indirectly giving to or receiving from
12 a person, firm, corporation, partnership, or association a
13 fee, commission, rebate, or other form of compensation for
14 professional service not actually or personally rendered,
15 except that an auctioneer licensed under this Act may
16 receive a fee from another licensed auctioneer from this
17 State or jurisdiction for the referring of a client or
18 prospect for auction services to the licensed auctioneer.

19 (9) Making any substantial misrepresentation or
20 untruthful advertising.

21 (10) Making any false promises of a character likely to
22 influence, persuade, or induce.

23 (11) Pursuing a continued and flagrant course of
24 misrepresentation or the making of false promises through a
25 licensee, agent, employee, advertising, or otherwise.

26 (12) Any misleading or untruthful advertising, or

1 using any trade name or insignia of membership in any
2 auctioneer association or organization of which the
3 licensee is not a member.

4 (13) Commingling funds of others with his or her own
5 funds or failing to keep the funds of others in an escrow
6 or trustee account.

7 (14) Failure to account for, remit, or return any
8 moneys, property, or documents coming into his or her
9 possession that belong to others, acquired through the
10 practice of auctioneering, conducting an auction, or
11 providing an auction service within 30 days of the written
12 request from the owner of said moneys, property, or
13 documents.

14 (15) Failure to maintain and deposit into a special
15 account, separate and apart from any personal or other
16 business accounts, all moneys belonging to others
17 entrusted to a licensee while acting as an auctioneer,
18 associate auctioneer, auction firm, or as a temporary
19 custodian of the funds of others.

20 (16) Failure to make available to Department personnel
21 during normal business hours all escrow and trustee records
22 and related documents maintained in connection with the
23 practice of auctioneering, conducting an auction, or
24 providing an auction service within 24 hours after a
25 request from Department personnel.

26 (17) Making or filing false records or reports in his

1 or her practice, including but not limited to false records
2 or reports filed with State agencies.

3 (18) Failing to voluntarily furnish copies of all
4 written instruments prepared by the auctioneer and signed
5 by all parties to all parties at the time of execution.

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

8 (20) Engaging in any act that constitutes a violation
9 of Section 2-102, 3-103, or 3-105 of the Illinois Human
10 Rights Act.

11 (21) (Blank).

12 (22) Engaging in dishonorable, unethical, or
13 unprofessional conduct of a character likely to deceive,
14 defraud, or harm the public.

15 (23) Offering or advertising real estate for sale or
16 lease at auction without a valid broker or salesperson's
17 license under the Real Estate License Act of 1983, or any
18 successor Act, unless exempt from licensure under the terms
19 of the Real Estate License Act of 2000, or any successor
20 Act.

21 (24) Inability to practice the profession with
22 reasonable judgement, skill, or safety as a result of a
23 physical illness, including, but not limited to,
24 deterioration through the aging process or loss of motor
25 skill, or a mental illness or disability.

26 (25) A pattern of practice or other behavior that

1 demonstrates incapacity or incompetence to practice under
2 this Act.

3 (26) Being named as a perpetrator in an indicated
4 report by the Department of Children and Family Services
5 under 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 a neglected
8 child as defined in the Abused and Neglected Child
9 Reporting Act.

10 (27) Inability to practice with reasonable judgement,
11 skill, or safety as a result of habitual or excessive use
12 or addiction to alcohol, narcotics, stimulants, or any
13 other chemical agent or drug.

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

17 The entry of an order by a circuit court establishing that
18 any person holding a license under this Act is subject to
19 involuntary admission or judicial admission, as provided for in
20 the Mental Health and Developmental Disabilities Code,
21 operates as an automatic suspension of that license. That
22 person may have his or her license restored only upon the
23 determination by a circuit court that the patient is no longer
24 subject to involuntary admission or judicial admission and the
25 issuance of an order so finding and discharging the patient and
26 upon the Board's recommendation to the Department that the

1 license be restored. Where circumstances so indicate, the Board
2 may recommend to the Department that it require an examination
3 prior to restoring a suspended license.

4 If the Department or Board finds an individual unable to
5 practice because of the reasons set forth in this Section, the
6 Department or Board may require that individual to submit to
7 care, counseling, or treatment by physicians approved or
8 designated by the Department or Board, as a condition, term, or
9 restriction for continued, reinstated, or renewed licensure to
10 practice; or, in lieu of care, counseling, or treatment, the
11 Department may file, or the Board may recommend to the
12 Department to file, a complaint to immediately suspend, revoke,
13 or otherwise discipline the license of the individual. An
14 individual whose license was granted, continued, reinstated,
15 renewed, disciplined or supervised subject to such terms,
16 conditions, or restrictions, and who fails to comply with such
17 terms, conditions, or restrictions, shall be referred to the
18 Secretary for a determination as to whether the individual
19 shall have his or her license suspended immediately, pending a
20 hearing by the Department. In instances in which the Secretary
21 immediately suspends a person's license under this Section, a
22 hearing on that person's license must be convened by the
23 Department within 21 days after the suspension and completed
24 without appreciable delay. The Department and Board shall have
25 the authority to review the subject individual's record of
26 treatment and counseling regarding the impairment to the extent

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

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

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

1 submit to the examination was without reasonable cause.

2 (Source: P.A. 95-572, eff. 6-1-08; 96-730, eff. 8-25-09.)

3 (225 ILCS 407/20-105 new)

4 Sec. 20-105. Confidentiality. All information collected by
5 the Department in the course of an examination or investigation
6 of a licensee or applicant, including, but not limited to, any
7 complaint against a licensee filed with the Department and
8 information collected to investigate any such complaint, shall
9 be maintained for the confidential use of the Department and
10 shall not be disclosed. The Department may not disclose the
11 information to anyone other than law enforcement officials,
12 other regulatory agencies that have an appropriate regulatory
13 interest as determined by the Secretary, or to a party
14 presenting a lawful subpoena to the Department. Information and
15 documents disclosed to a federal, State, county, or local law
16 enforcement agency shall not be disclosed by the agency for any
17 purpose to any other agency or person. A formal complaint filed
18 against a licensee by the Department or any order issued by the
19 Department against a licensee or applicant shall be a public
20 record, except as otherwise prohibited by law.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.