



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3625

Introduced 2/24/2011, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

See Index

Creates the Torture Reporting Act. Mandates the reporting of torture to law enforcement agencies by designated professionals. Provides that any licensed medical or dental professional having reasonable cause to believe that a person known to him or her in his or her professional or official capacity is affected by torture, improper treatment or other like conduct has occurred, is occurring or will occur shall, as soon as is possible without jeopardizing his or her physical safety, or the physical safety of others, report the incident to a law enforcement agency. Provides that the privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving alleged acts of torture. Provides that any physician, dentist, or dental hygienist who willfully fails to report suspected torture under the Act shall be referred to the appropriate licensing entity. Provides that any other person required by the Act to report suspected torture who willfully fails to report torture is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation. Provides that any person required to report who has reasonable cause to suspect that a person has died as a result of torture shall also immediately report this suspicion to the appropriate medical examiner or coroner, who shall investigate the report and communicate the gross findings, within specified times. Provides that a home rule unit may not regulate the reporting of cases of torture in a manner inconsistent with the Act. Amends the Medical Practice Act and the Dental Practice Act to include the Torture Reporting Act.

LRB097 08680 AJ0 48809 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning torture.

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 Torture Reporting Act.

6 Section 5. Definition. As used in the Act:

7 "Local law enforcement agency" means the police of a city,
8 town, village, or other incorporated area or the sheriff of a
9 county, or any sworn officer of the Illinois Department of
10 State Police.

11 Section 10. Persons required to report. Any physician,
12 resident, intern, hospital, hospital administrator, and
13 personnel engaged in the examination, care and treatment of
14 persons, surgeon, dentist, dentist hygienist, osteopath,
15 chiropractor, podiatrist, physician assistant, medical
16 examiner, emergency medical technician, acupuncturist,
17 registered nurse, licensed practical nurse, genetic counselor,
18 respiratory care practitioner, advanced practice nurse, or
19 home health aide, having reasonable cause to believe a person
20 known to them in his or her professional or official capacity
21 is affected by torture, improper treatment, or other like
22 conduct that has occurred, is occurring, or will occur shall,

1 as soon as is possible without jeopardizing his or her own
2 physical safety or the physical safety of other parties, report
3 the incident to a local law enforcement agency.

4 Section 15. Privilege. The privileged quality of
5 communication between any professional person required to
6 report and his or her patient or client shall not apply to
7 situations involving alleged acts of torture.

8 Section 20. Sanctions. Any physician who willfully fails to
9 report suspected torture as required by this Act shall be
10 referred to the Illinois State Medical Disciplinary Board for
11 action in accordance with paragraph 22 of subsection (a) of
12 Section 22 of the Medical Practice Act of 1987. Any dentist or
13 dental hygienist who willfully fails to report suspected
14 torture as required by the Act shall be referred to the
15 Department of Financial and Professional Regulation for action
16 in accordance with paragraph 19 of Section 23 of the Illinois
17 Dental Practice Act. Any other person required by the Act to
18 report suspected torture who willfully fails to report such is
19 guilty of a Class A misdemeanor for a first violation and a
20 Class 4 felony for a second or subsequent violation.

21 Section 25. Death report. Any person required to report
22 under the Act who has reasonable cause to suspect that a person
23 has died as a result of torture shall also immediately report

1 his or her suspicion to the appropriate medical examiner or
2 coroner. The medical examiner or coroner shall investigate the
3 report and communicate his or her apparent gross findings,
4 orally, immediately upon completion of the gross autopsy, but
5 in all cases orally within 72 hours and within 21 days in
6 writing, to the local law enforcement agency, the appropriate
7 State's attorney, and, if the institution making the report is
8 a hospital, the hospital.

9 Section 30. Home rule limitation. A home rule unit may not
10 regulate the reporting of cases of torture in a manner
11 inconsistent with the provisions of this Act. This Section is a
12 limitation under subsection (i) of Section 6 of Article VII of
13 the Illinois Constitution on the concurrent exercise by home
14 rule units of powers and functions exercised by the State.

15 Section 800. The Medical Practice Act of 1987 is amended by
16 changing Section 22 as follows:

17 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

18 (Section scheduled to be repealed on November 30, 2011)

19 (Text of Section WITH the changes made by P.A. 94-677,
20 which has been held unconstitutional)

21 Sec. 22. Disciplinary action.

22 (A) The Department may revoke, suspend, place on
23 probationary status, refuse to renew, or take any other

1 disciplinary action as the Department may deem proper with
2 regard to the license or visiting professor permit of any
3 person issued under this Act to practice medicine, or to treat
4 human ailments without the use of drugs and without operative
5 surgery upon any of the following grounds:

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

8 (a) a facility licensed pursuant to the Ambulatory
9 Surgical Treatment Center Act;

10 (b) an institution licensed under the Hospital
11 Licensing Act;

12 (c) an ambulatory surgical treatment center or
13 hospitalization or care facility maintained by the
14 State or any agency thereof, where such department or
15 agency has authority under law to establish and enforce
16 standards for the ambulatory surgical treatment
17 centers, hospitalization, or care facilities under its
18 management and control;

19 (d) ambulatory surgical treatment centers,
20 hospitalization or care facilities maintained by the
21 Federal Government; or

22 (e) ambulatory surgical treatment centers,
23 hospitalization or care facilities maintained by any
24 university or college established under the laws of
25 this State and supported principally by public funds
26 raised by taxation.

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

4 (3) The conviction of a felony in this or any other
5 jurisdiction, except as otherwise provided in subsection B
6 of this Section, whether or not related to practice under
7 this Act, or the entry of a guilty or nolo contendere plea
8 to a felony charge.

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

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

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

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

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

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

24 (10) Making a false or misleading statement regarding
25 their skill or the efficacy or value of the medicine,
26 treatment, or remedy prescribed by them at their direction

1 in the treatment of any disease or other condition of the
2 body or mind.

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

5 (12) Disciplinary action of another state or
6 jurisdiction against a license or other authorization to
7 practice as a medical doctor, doctor of osteopathy, doctor
8 of osteopathic medicine or doctor of chiropractic, a
9 certified copy of the record of the action taken by the
10 other state or jurisdiction being prima facie evidence
11 thereof.

12 (13) Violation of any provision of this Act or of the
13 Medical Practice Act prior to the repeal of that Act, or
14 violation of the rules, or a final administrative action of
15 the Secretary, after consideration of the recommendation
16 of the Disciplinary Board.

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

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

24 (16) Abandonment of a patient.

25 (17) Prescribing, selling, administering,
26 distributing, giving or self-administering any drug

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

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

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

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

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

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

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

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

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

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

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

25 (28) Physical illness, including, but not limited to,
26 deterioration through the aging process, or loss of motor

1 skill which results in a physician's inability to practice
2 under this Act with reasonable judgment, skill or safety.

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

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

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

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

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

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

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

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

16 (37) Failure to provide copies of medical records as
17 required by law.

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

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

25 (40) Willful failure to provide notice when notice is
26 required under the Parental Notice of Abortion Act of 1995.

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

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

7 (43) Repeated failure to adequately collaborate with a
8 licensed advanced practice nurse.

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

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

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

21 The Department may refuse to issue or take disciplinary
22 action concerning the license of any person who fails to file a
23 return, or to pay the tax, penalty or interest shown in a filed
24 return, or to pay any final assessment of tax, penalty or
25 interest, as required by any tax Act administered by the
26 Illinois Department of Revenue, until such time as the

1 requirements of any such tax Act are satisfied as determined by
2 the Illinois Department of Revenue.

3 The Department, upon the recommendation of the
4 Disciplinary Board, shall adopt rules which set forth standards
5 to be used in determining:

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

8 (b) what constitutes dishonorable, unethical or
9 unprofessional conduct of a character likely to deceive,
10 defraud, or harm the public;

11 (c) what constitutes immoral conduct in the commission
12 of any act, including, but not limited to, commission of an
13 act of sexual misconduct related to the licensee's
14 practice; and

15 (d) what constitutes gross negligence in the practice
16 of medicine.

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

20 In enforcing this Section, the Medical Disciplinary Board,
21 upon a showing of a possible violation, may compel any
22 individual licensed to practice under this Act, or who has
23 applied for licensure or a permit pursuant to this Act, to
24 submit to a mental or physical examination, or both, as
25 required by and at the expense of the Department. The examining
26 physician or physicians shall be those specifically designated

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

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

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

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

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

14 (C) The Medical Disciplinary Board shall recommend to the
15 Department civil penalties and any other appropriate
16 discipline in disciplinary cases when the Board finds that a
17 physician willfully performed an abortion with actual
18 knowledge that the person upon whom the abortion has been
19 performed is a minor or an incompetent person without notice as
20 required under the Parental Notice of Abortion Act of 1995.
21 Upon the Board's recommendation, the Department shall impose,
22 for the first violation, a civil penalty of \$1,000 and for a
23 second or subsequent violation, a civil penalty of \$5,000.

24 (Source: P.A. 94-566, eff. 9-11-05; 94-677, eff. 8-25-05;
25 95-331, eff. 8-21-07; 96-608, eff. 8-24-09; 96-1000, eff.
26 7-2-10.)

1 (Text of Section WITHOUT the changes made by P.A. 94-677,
2 which has been held unconstitutional)

3 Sec. 22. Disciplinary action.

4 (A) The Department may revoke, suspend, place on
5 probationary status, or take any other disciplinary action as
6 the Department may deem proper with regard to the license or
7 visiting professor permit of any person issued under this Act
8 to practice medicine, or to treat human ailments without the
9 use of drugs and without operative surgery upon any of the
10 following grounds:

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

13 (a) a facility licensed pursuant to the Ambulatory
14 Surgical Treatment Center Act;

15 (b) an institution licensed under the Hospital
16 Licensing Act;

17 (c) an ambulatory surgical treatment center or
18 hospitalization or care facility maintained by the
19 State or any agency thereof, where such department or
20 agency has authority under law to establish and enforce
21 standards for the ambulatory surgical treatment
22 centers, hospitalization, or care facilities under its
23 management and control;

24 (d) ambulatory surgical treatment centers,
25 hospitalization or care facilities maintained by the

1 Federal Government; or

2 (e) ambulatory surgical treatment centers,
3 hospitalization or care facilities maintained by any
4 university or college established under the laws of
5 this State and supported principally by public funds
6 raised by taxation.

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

10 (3) The conviction of a felony in this or any other
11 jurisdiction, except as otherwise provided in subsection B
12 of this Section, whether or not related to practice under
13 this Act, or the entry of a guilty or nolo contendere plea
14 to a felony charge.

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

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

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

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

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

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

4 (10) Making a false or misleading statement regarding
5 their skill or the efficacy or value of the medicine,
6 treatment, or remedy prescribed by them at their direction
7 in the treatment of any disease or other condition of the
8 body or mind.

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

11 (12) Disciplinary action of another state or
12 jurisdiction against a license or other authorization to
13 practice as a medical doctor, doctor of osteopathy, doctor
14 of osteopathic medicine or doctor of chiropractic, a
15 certified copy of the record of the action taken by the
16 other state or jurisdiction being prima facie evidence
17 thereof.

18 (13) Violation of any provision of this Act or of the
19 Medical Practice Act prior to the repeal of that Act, or
20 violation of the rules, or a final administrative action of
21 the Director, after consideration of the recommendation of
22 the Disciplinary Board.

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

25 (15) A finding by the Medical Disciplinary Board that
26 the registrant after having his or her license placed on

1 probationary status or subjected to conditions or
2 restrictions violated the terms of the probation or failed
3 to comply with such terms or conditions.

4 (16) Abandonment of a patient.

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

10 (18) Promotion of the sale of drugs, devices,
11 appliances or goods provided for a patient in such manner
12 as to exploit the patient for financial gain of the
13 physician.

14 (19) Offering, undertaking or agreeing to cure or treat
15 disease by a secret method, procedure, treatment or
16 medicine, or the treating, operating or prescribing for any
17 human condition by a method, means or procedure which the
18 licensee refuses to divulge upon demand of the Department.

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

22 (21) Wilfully making or filing false records or reports
23 in his or her practice as a physician, including, but not
24 limited to, false records to support claims against the
25 medical assistance program of the Department of Healthcare
26 and Family Services (formerly Department of Public Aid)

1 under the Illinois Public Aid Code.

2 (22) Wilful omission to file or record, or wilfully
3 impeding the filing or recording, or inducing another
4 person to omit to file or record, medical reports as
5 required by law, or wilfully failing to report an instance
6 of suspected abuse, torture, or neglect as required by law.

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

14 (24) Solicitation of professional patronage by any
15 corporation, agents or persons, or profiting from those
16 representing themselves to be agents of the licensee.

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

25 (26) A pattern of practice or other behavior which
26 demonstrates incapacity or incompetence to practice under

1 this Act.

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

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

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

11 (30) Wilfully or negligently violating the
12 confidentiality between physician and patient except as
13 required by law.

14 (31) The use of any false, fraudulent, or deceptive
15 statement in any document connected with practice under
16 this Act.

17 (32) Aiding and abetting an individual not licensed
18 under this Act in the practice of a profession licensed
19 under this Act.

20 (33) Violating state or federal laws or regulations
21 relating to controlled substances.

22 (34) Failure to report to the Department any adverse
23 final action taken against them by another licensing
24 jurisdiction (any other state or any territory of the
25 United States or any foreign state or country), by any peer
26 review body, by any health care institution, by any

1 professional society or association related to practice
2 under this Act, by any governmental agency, by any law
3 enforcement agency, or by any court for acts or conduct
4 similar to acts or conduct which would constitute grounds
5 for action as defined in this Section.

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

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

21 (37) Failure to provide copies of medical records as
22 required by law.

23 (38) Failure to furnish the Department, its
24 investigators or representatives, relevant information,
25 legally requested by the Department after consultation
26 with the Chief Medical Coordinator or the Deputy Medical

1 Coordinator.

2 (39) Violating the Health Care Worker Self-Referral
3 Act.

4 (40) Willful failure to provide notice when notice is
5 required under the Parental Notice of Abortion Act of 1995.

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

8 (42) Entering into an excessive number of written
9 collaborative agreements with licensed advanced practice
10 nurses resulting in an inability to adequately
11 collaborate.

12 (43) Repeated failure to adequately collaborate with a
13 licensed advanced practice nurse.

14 All proceedings to suspend, revoke, place on probationary
15 status, or take any other disciplinary action as the Department
16 may deem proper, with regard to a license on any of the
17 foregoing grounds, must be commenced within 3 years next after
18 receipt by the Department of a complaint alleging the
19 commission of or notice of the conviction order for any of the
20 acts described herein. Except for the grounds numbered (8), (9)
21 and (29), no action shall be commenced more than 5 years after
22 the date of the incident or act alleged to have violated this
23 Section. In the event of the settlement of any claim or cause
24 of action in favor of the claimant or the reduction to final
25 judgment of any civil action in favor of the plaintiff, such
26 claim, cause of action or civil action being grounded on the

1 allegation that a person licensed under this Act was negligent
2 in providing care, the Department shall have an additional
3 period of one year from the date of notification to the
4 Department under Section 23 of this Act of such settlement or
5 final judgment in which to investigate and commence formal
6 disciplinary proceedings under Section 36 of this Act, except
7 as otherwise provided by law. The time during which the holder
8 of the license was outside the State of Illinois shall not be
9 included within any period of time limiting the commencement of
10 disciplinary action by the Department.

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

20 The Department may refuse to issue or take disciplinary
21 action concerning the license of any person who fails to file a
22 return, or to pay the tax, penalty or interest shown in a filed
23 return, or to pay any final assessment of tax, penalty or
24 interest, as required by any tax Act administered by the
25 Illinois Department of Revenue, until such time as the
26 requirements of any such tax Act are satisfied as determined by

1 the Illinois Department of Revenue.

2 The Department, upon the recommendation of the
3 Disciplinary Board, shall adopt rules which set forth standards
4 to be used in determining:

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

7 (b) what constitutes dishonorable, unethical or
8 unprofessional conduct of a character likely to deceive,
9 defraud, or harm the public;

10 (c) what constitutes immoral conduct in the commission
11 of any act, including, but not limited to, commission of an
12 act of sexual misconduct related to the licensee's
13 practice; and

14 (d) what constitutes gross negligence in the practice
15 of medicine.

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

19 In enforcing this Section, the Medical Disciplinary Board,
20 upon a showing of a possible violation, may compel any
21 individual licensed to practice under this Act, or who has
22 applied for licensure or a permit pursuant to this Act, to
23 submit to a mental or physical examination, or both, as
24 required by and at the expense of the Department. The examining
25 physician or physicians shall be those specifically designated
26 by the Disciplinary Board. The Medical Disciplinary Board or

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

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

13 An individual licensed under this Act, affected under this
14 Section, shall be afforded an opportunity to demonstrate to the
15 Disciplinary Board that they can resume practice in compliance
16 with acceptable and prevailing standards under the provisions
17 of their license.

18 The Department may promulgate rules for the imposition of
19 fines in disciplinary cases, not to exceed \$5,000 for each
20 violation of this Act. Fines may be imposed in conjunction with
21 other forms of disciplinary action, but shall not be the
22 exclusive disposition of any disciplinary action arising out of
23 conduct resulting in death or injury to a patient. Any funds
24 collected from such fines shall be deposited in the Medical
25 Disciplinary Fund.

26 (B) The Department shall revoke the license or visiting

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

13 (C) The Medical Disciplinary Board shall recommend to the
14 Department civil penalties and any other appropriate
15 discipline in disciplinary cases when the Board finds that a
16 physician willfully performed an abortion with actual
17 knowledge that the person upon whom the abortion has been
18 performed is a minor or an incompetent person without notice as
19 required under the Parental Notice of Abortion Act of 1995.
20 Upon the Board's recommendation, the Department shall impose,
21 for the first violation, a civil penalty of \$1,000 and for a
22 second or subsequent violation, a civil penalty of \$5,000.

23 (Source: P.A. 94-566, eff. 9-11-05; 95-331, eff. 8-21-07;
24 96-608, eff. 8-24-09; 96-1000, eff. 7-2-10.)

25 Section 900. The Illinois Dental Practice Act is amended by

1 changing Section 23 as follows:

2 (225 ILCS 25/23) (from Ch. 111, par. 2323)

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

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

11 1. Fraud in procuring the license.

12 2. Habitual intoxication or addiction to the use of
13 drugs.

14 3. Willful or repeated violations of the rules of the
15 Department of Public Health or Department of Nuclear
16 Safety.

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

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

1 Nothing in this item 5 affects any bona fide independent
2 contractor or employment arrangements among health care
3 professionals, health facilities, health care providers,
4 or other entities, except as otherwise prohibited by law.
5 Any employment arrangements may include provisions for
6 compensation, health insurance, pension, or other
7 employment benefits for the provision of services within
8 the scope of the licensee's practice under this Act.
9 Nothing in this item 5 shall be construed to require an
10 employment arrangement to receive professional fees for
11 services rendered.

12 6. Employing, procuring, inducing, aiding or abetting
13 a person not licensed or registered as a dentist to engage
14 in the practice of dentistry. The person practiced upon is
15 not an accomplice, employer, procurer, inducer, aider, or
16 abetter within the meaning of this Act.

17 7. Making any misrepresentations or false promises,
18 directly or indirectly, to influence, persuade or induce
19 dental patronage.

20 8. Professional connection or association with or
21 lending his name to another for the illegal practice of
22 dentistry by another, or professional connection or
23 association with any person, firm or corporation holding
24 himself, herself, themselves, or itself out in any manner
25 contrary to this Act.

26 9. Obtaining or seeking to obtain practice, money, or

1 any other things of value by false or fraudulent
2 representations, but not limited to, engaging in such
3 fraudulent practice to defraud the medical assistance
4 program of the Department of Healthcare and Family Services
5 (formerly Department of Public Aid).

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

7 11. Engaging in dishonorable, unethical, or
8 unprofessional conduct of a character likely to deceive,
9 defraud, or harm the public.

10 12. Conviction in this or another State of any crime
11 which is a felony under the laws of this State or
12 conviction of a felony in a federal court, conviction of a
13 misdemeanor, an essential element of which is dishonesty,
14 or conviction of any crime which is directly related to the
15 practice of dentistry or dental hygiene.

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

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

21 15. A violation of any provision of this Act or any
22 rules promulgated under this Act.

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

25 17. Violating any provision of Section 45 relating to
26 advertising.

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

5 19. Willfully failing to report an instance of
6 suspected child abuse or neglect as required by the Abused
7 and Neglected Child Reporting Act or an instance of torture
8 as required by the Torture Reporting Act.

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

11 21. The use or prescription for use of narcotics or
12 controlled substances or designated products as listed in
13 the Illinois Controlled Substances Act, in any way other
14 than for therapeutic purposes.

15 22. Willfully making or filing false records or reports
16 in his practice as a dentist, including, but not limited
17 to, false records to support claims against the dental
18 assistance program of the Department of Healthcare and
19 Family Services (formerly Illinois Department of Public
20 Aid).

21 23. Professional incompetence as manifested by poor
22 standards of care.

23 24. Physical or mental illness, including, but not
24 limited to, deterioration through the aging process, or
25 loss of motor skills which results in a dentist's inability
26 to practice dentistry with reasonable judgment, skill or

1 safety. In enforcing this paragraph, the Department may
2 compel a person licensed to practice under this Act to
3 submit to a mental or physical examination pursuant to the
4 terms and conditions of Section 23b.

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

8 (a) Reporting excessive charges for the purpose of
9 obtaining a total payment in excess of that usually
10 received by the dentist for the services rendered.

11 (b) Reporting charges for services not rendered.

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

14 26. Continuing the active practice of dentistry while
15 knowingly having any infectious, communicable, or
16 contagious disease proscribed by rule or regulation of the
17 Department.

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

24 28. Violating the Health Care Worker Self-Referral
25 Act.

26 29. Abandonment of a patient.

1 30. Mental incompetency as declared by a court of
2 competent jurisdiction.

3 All proceedings to suspend, revoke, place on probationary
4 status, or take any other disciplinary action as the Department
5 may deem proper, with regard to a license on any of the
6 foregoing grounds, must be commenced within 3 years after
7 receipt by the Department of a complaint alleging the
8 commission of or notice of the conviction order for any of the
9 acts described herein. Except for fraud in procuring a license,
10 no action shall be commenced more than 5 years after the date
11 of the incident or act alleged to have violated this Section.
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 The Department may refuse to issue or may suspend the
17 license of any person who fails to file a return, or to pay the
18 tax, penalty or interest shown in a filed return, or to pay any
19 final assessment of tax, penalty or interest, as required by
20 any tax Act administered by the Illinois Department of Revenue,
21 until such time as the requirements of any such tax Act are
22 satisfied.

23 (Source: P.A. 96-1482, eff. 11-29-10.)

1

INDEX

2

Statutes amended in order of appearance

3

New Act

4

225 ILCS 60/22

from Ch. 111, par. 4400-22

5

225 ILCS 25/23

from Ch. 111, par. 2323

1	INDEX
2	Statutes amended in order of appearance
3	See Index