

SB0056



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0056

Introduced 1/27/2011, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

See Index

Amends the Alcoholism and Other Drug Abuse and Dependency Act. Provides that the Director of the Division of Alcoholism and Substance Abuse of the Department of Human Services shall (rather than may) establish or authorize programs for prescribing, dispensing, or distributing naloxone hydrochloride or any other similarly acting and equally safe drug approved by the U.S. Food and Drug Administration for the treatment of drug overdose. Amends the Cannabis Control Act, the Illinois Controlled Substances Act, and the Methamphetamine Control and Community Protection Act. Provides that a person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose or a person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of cannabis, a controlled or counterfeit substance or a controlled substance analog, or methamphetamine if the evidence for the charge of possession of cannabis, a controlled or counterfeit substance or a controlled substance analog, or methamphetamine was obtained as a result of the person seeking medical assistance. Amends the Unified Code of Corrections. Provides that it is a mitigating factor in sentencing that the defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose. Makes other changes.

LRB097 02747 RLC 42769 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning drug overdoses.

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

4 Section 5. The Alcoholism and Other Drug Abuse and
5 Dependency Act is amended by changing Section 5-23 as follows:

6 (20 ILCS 301/5-23)

7 Sec. 5-23. Drug Overdose Prevention Program.

8 (a) Reports of drug overdose.

9 (1) The Director of the Division of Alcoholism and
10 Substance Abuse may publish annually a report on drug
11 overdose trends statewide that reviews State death rates
12 from available data to ascertain changes in the causes or
13 rates of fatal and nonfatal drug overdose for the preceding
14 period of not less than 5 years. The report shall also
15 provide information on interventions that would be
16 effective in reducing the rate of fatal or nonfatal drug
17 overdose.

18 (2) The report may include:

19 (A) Trends in drug overdose death rates.

20 (B) Trends in emergency room utilization related
21 to drug overdose and the cost impact of emergency room
22 utilization.

23 (C) Trends in utilization of pre-hospital and

1 emergency services and the cost impact of emergency
2 services utilization.

3 (D) Suggested improvements in data collection.

4 (E) A description of other interventions effective
5 in reducing the rate of fatal or nonfatal drug
6 overdose.

7 (b) Programs; drug overdose prevention.

8 (1) The Director may establish a program to provide for
9 the production and publication, in electronic and other
10 formats, of drug overdose prevention, recognition, and
11 response literature. The Director may develop and
12 disseminate curricula for use by professionals,
13 organizations, individuals, or committees interested in
14 the prevention of fatal and nonfatal drug overdose,
15 including, but not limited to, drug users, jail and prison
16 personnel, jail and prison inmates, drug treatment
17 professionals, emergency medical personnel, hospital
18 staff, families and associates of drug users, peace
19 officers, firefighters, public safety officers, needle
20 exchange program staff, and other persons. In addition to
21 information regarding drug overdose prevention,
22 recognition, and response, literature produced by the
23 Department shall stress that drug use remains illegal and
24 highly dangerous and that complete abstinence from illegal
25 drug use is the healthiest choice. The literature shall
26 provide information and resources for substance abuse

1 treatment.

2 The Director shall ~~may~~ establish or authorize programs
3 for prescribing, dispensing, or distributing naloxone
4 hydrochloride or any other similarly acting and equally
5 safe drug approved by the U.S. Food and Drug Administration
6 for the treatment of drug overdose. Such programs shall ~~may~~
7 include the prescribing of naloxone hydrochloride or any
8 other similarly acting and equally safe drug approved by
9 the U.S. Food and Drug Administration for the treatment of
10 drug overdose to and education about administration by
11 individuals who are not personally at risk of opioid
12 overdose.

13 (2) The Director may provide advice to State and local
14 officials on the growing drug overdose crisis, including
15 the prevalence of drug overdose incidents, trends in drug
16 overdose incidents, and solutions to the drug overdose
17 crisis.

18 (c) Grants.

19 (1) The Director may award grants, in accordance with
20 this subsection, to create or support local drug overdose
21 prevention, recognition, and response projects. Local
22 health departments, correctional institutions, hospitals,
23 universities, community-based organizations, and
24 faith-based organizations may apply to the Department for a
25 grant under this subsection at the time and in the manner
26 the Director prescribes.

1 (2) In awarding grants, the Director shall consider the
2 necessity for overdose prevention projects in various
3 settings and shall encourage all grant applicants to
4 develop interventions that will be effective and viable in
5 their local areas.

6 (3) The Director shall give preference for grants to
7 proposals that, in addition to providing life-saving
8 interventions and responses, provide information to drug
9 users on how to access drug treatment or other strategies
10 for abstaining from illegal drugs. The Director shall give
11 preference to proposals that include one or more of the
12 following elements:

13 (A) Policies and projects to encourage persons,
14 including drug users, to call 911 when they witness a
15 potentially fatal drug overdose.

16 (B) Drug overdose prevention, recognition, and
17 response education projects in drug treatment centers,
18 outreach programs, and other organizations that work
19 with, or have access to, drug users and their families
20 and communities.

21 (C) Drug overdose recognition and response
22 training, including rescue breathing, in drug
23 treatment centers and for other organizations that
24 work with, or have access to, drug users and their
25 families and communities.

26 (D) The production and distribution of targeted or

1 mass media materials on drug overdose prevention and
2 response.

3 (E) Prescription and distribution of naloxone
4 hydrochloride or any other similarly acting and
5 equally safe drug approved by the U.S. Food and Drug
6 Administration for the treatment of drug overdose.

7 (F) The institution of education and training
8 projects on drug overdose response and treatment for
9 emergency services and law enforcement personnel.

10 (G) A system of parent, family, and survivor
11 education and mutual support groups.

12 (4) In addition to moneys appropriated by the General
13 Assembly, the Director may seek grants from private
14 foundations, the federal government, and other sources to
15 fund the grants under this Section and to fund an
16 evaluation of the programs supported by the grants.

17 (d) Health care professional prescription of drug overdose
18 treatment medication.

19 (1) A health care professional who, acting in good
20 faith, directly or by standing order, prescribes or
21 dispenses an opioid antidote to a patient who, in the
22 judgment of the health care professional, is capable of
23 administering the drug in an emergency, shall not, as a
24 result of his or her acts or omissions, be subject to
25 disciplinary or other adverse action under the Medical
26 Practice Act of 1987, the Physician Assistant Practice Act

1 of 1987, the Nurse Practice Act, the Pharmacy Practice Act,
2 or any other professional licensing statute.

3 (2) A person who is not otherwise licensed to
4 administer an opioid antidote may in an emergency
5 administer without fee an opioid antidote if the person has
6 received the patient information specified in paragraph
7 (4) of this subsection and believes in good faith that
8 another person is experiencing a drug overdose. The person
9 shall not, as a result of his or her acts or omissions, be
10 liable for any violation of the Medical Practice Act of
11 1987, the Physician Assistant Practice Act of 1987, the
12 Nurse Practice Act, the Pharmacy Practice Act, or any other
13 professional licensing statute, or subject to any criminal
14 prosecution arising from or related to the unauthorized
15 practice of medicine or the possession of an opioid
16 antidote.

17 (3) A health care professional prescribing an opioid
18 antidote to a patient shall ensure that the patient
19 receives the patient information specified in paragraph
20 (4) of this subsection. Patient information may be provided
21 by the health care professional or a community-based
22 organization, substance abuse program, or other
23 organization with which the health care professional
24 establishes a written agreement that includes a
25 description of how the organization will provide patient
26 information, how employees or volunteers providing

1 information will be trained, and standards for documenting
2 the provision of patient information to patients.
3 Provision of patient information shall be documented in the
4 patient's medical record or through similar means as
5 determined by agreement between the health care
6 professional and the organization. The Director of the
7 Division of Alcoholism and Substance Abuse, in
8 consultation with statewide organizations representing
9 physicians, advanced practice nurses, physician
10 assistants, substance abuse programs, and other interested
11 groups, shall develop and disseminate to health care
12 professionals, community-based organizations, substance
13 abuse programs, and other organizations training materials
14 in video, electronic, or other formats to facilitate the
15 provision of such patient information.

16 (4) For the purposes of this subsection:

17 "Opioid antidote" means naloxone hydrochloride or any
18 other similarly acting and equally safe drug approved by
19 the U.S. Food and Drug Administration for the treatment of
20 drug overdose.

21 "Health care professional" means a physician licensed
22 to practice medicine in all its branches, a physician
23 assistant who has been delegated the prescription or
24 dispensation of an opioid antidote by his or her
25 supervising physician, an advanced practice registered
26 nurse who has a written collaborative agreement with a

1 collaborating physician that authorizes the prescription
2 or dispensation of an opioid antidote, or an advanced
3 practice nurse who practices in a hospital or ambulatory
4 surgical treatment center and possesses appropriate
5 clinical privileges in accordance with the Nurse Practice
6 Act.

7 "Patient" includes a person who is not at risk of
8 opioid overdose but who, in the judgment of the physician,
9 may be in a position to assist another individual during an
10 overdose and who has received patient information as
11 required in paragraph (2) of this subsection on the
12 indications for and administration of an opioid antidote.

13 "Patient information" includes information provided to
14 the patient on drug overdose prevention and recognition;
15 how to perform rescue breathing and resuscitation; opioid
16 antidote dosage and administration; the importance of
17 calling 911; care for the overdose victim after
18 administration of the overdose antidote; and other issues
19 as necessary.

20 (Source: P.A. 96-361, eff. 1-1-10.)

21 Section 10. The Medical Practice Act of 1987 is amended by
22 changing Section 22 as follows:

23 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

24 (Section scheduled to be repealed on December 31, 2010)

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
26 Federal Government; or

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

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

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

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

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

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

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

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

26 (9) Fraud or misrepresentation in applying for, or

1 procuring, a license under this Act or in connection with
2 applying for renewal of a license under this Act.

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

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

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

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

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

24 (15) A finding by the Medical Disciplinary Board that
25 the registrant after having his or her license placed on
26 probationary status or subjected to conditions or

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

3 (16) Abandonment of a patient.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (B) The Department shall revoke the license or visiting
26 permit of any person issued under this Act to practice medicine

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

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

22 (D) The administering, dispensing, prescribing,
23 purchasing, acquisition, possession, or use of naloxone shall
24 not constitute unprofessional conduct under this Act, or be in
25 violation of any provisions under this Act, by any person
26 licensed under this Act, if the unprofessional conduct or

1 violation results from a good faith effort to assist: (1) a
2 person experiencing, or likely to experience, an
3 opiate-related overdose; or (2) a family member, friend, or
4 other person in a position to assist a person experiencing, or
5 likely to experience, an opiate-related overdose.

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

8 Section 15. The Nurse Practice Act is amended by changing
9 Section 50-50 as follows:

10 (225 ILCS 65/50-50) (was 225 ILCS 65/10-5)

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

12 Sec. 50-50. Prohibited acts.

13 (a) No person shall:

14 (1) Practice as an advanced practice nurse without a
15 valid license as an advanced practice nurse, except as
16 provided in Section 50-15 of this Act;

17 (2) Practice professional nursing without a valid
18 license as a registered professional nurse except as
19 provided in Section 50-15 of this Act;

20 (3) Practice practical nursing without a valid license
21 as a licensed practical nurse or practice practical
22 nursing, except as provided in Section 50-15 of this Act;

23 (4) Practice nursing under cover of any diploma,
24 license, or record illegally or fraudulently obtained or

1 signed or issued unlawfully or under fraudulent
2 representation;

3 (5) Practice nursing during the time her or his license
4 is suspended, revoked, expired or on inactive status;

5 (6) Use any words, abbreviations, figures, letters,
6 title, sign, card, or device tending to imply that she or
7 he is a registered professional nurse, including the titles
8 or initials, "Nurse," "Registered Nurse," "Professional
9 Nurse," "Registered Professional Nurse," "Certified
10 Nurse," "Trained Nurse," "Graduate Nurse," "P.N.," or
11 "R.N.," or "R.P.N." or similar titles or initials with
12 intention of indicating practice without a valid license as
13 a registered professional nurse;

14 (7) Use any words, abbreviations, figures, letters,
15 titles, signs, cards, or devices tending to imply that she
16 or he is an advanced practice nurse, including the titles
17 or initials "Advanced Practice Nurse", "A.P.N.", or
18 similar titles or initials, with the intention of
19 indicating practice as an advanced practice nurse without a
20 valid license as an advanced practice nurse under this Act.

21 (8) Use any words, abbreviations figures, letters,
22 title, sign, card, or device tending to imply that she or
23 he is a licensed practical nurse including the titles or
24 initials "Practical Nurse," "Licensed Practical Nurse,"
25 "P.N.," or "L.P.N.," or similar titles or initials with
26 intention of indicated practice as a licensed practical

1 nurse without a valid license as a licensed practical nurse
2 under this Act;

3 (9) Advertise services regulated under this Act
4 without including in every advertisement his or her title
5 as it appears on the license or the initials authorized
6 under this Act;

7 (10) Obtain or furnish a license by or for money or any
8 other thing of value other than the fees required under
9 this Act, or by any fraudulent representation or act;

10 (11) Make any wilfully false oath or affirmation
11 required by this Act;

12 (12) Conduct a nursing education program preparing
13 persons for licensure that has not been approved by the
14 Department;

15 (13) Represent that any school or course is approved or
16 accredited as a school or course for the education of
17 registered professional nurses or licensed practical
18 nurses unless such school or course is approved by the
19 Department under the provisions of this Act;

20 (14) Attempt or offer to do any of the acts enumerated
21 in this Section, or knowingly aid, abet, assist in the
22 doing of any such acts or in the attempt or offer to do any
23 of such acts;

24 (15) Employ persons not licensed under this Act to
25 practice professional nursing or practical nursing; and

26 (16) Otherwise intentionally violate any provision of

1 this Act.

2 (17) Retaliate against any nurse who reports unsafe,
3 unethical, or illegal health care practices or conditions.

4 (18) Be deemed a supervisor when delegating nursing
5 activities or tasks as authorized under this Act.

6 (b) Any person, including a firm, association or
7 corporation who violates any provision of this Section shall be
8 guilty of a Class A misdemeanor.

9 (c) The administering, dispensing, prescribing,
10 purchasing, acquisition, possession, or use of naloxone shall
11 not constitute unprofessional conduct under this Act, or be in
12 violation of any provisions under this Act, by any person
13 licensed under this Act, if the unprofessional conduct or
14 violation results from a good faith effort to assist: (1) a
15 person experiencing, or likely to experience, an
16 opiate-related overdose; or (2) a family member, friend, or
17 other person in a position to assist a person experiencing, or
18 likely to experience, an opiate-related overdose.

19 (Source: P.A. 95-639, eff. 10-5-07.)

20 Section 20. The Pharmacy Practice Act is amended by
21 changing Section 30 as follows:

22 (225 ILCS 85/30) (from Ch. 111, par. 4150)

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

24 Sec. 30. Refusal, revocation, or suspension.

1 (a) The Department may refuse to issue or renew, or may
2 revoke a license or registration, or may suspend, place on
3 probation, fine, or take any disciplinary or non-disciplinary
4 action as the Department may deem proper, including fines not
5 to exceed \$10,000 for each violation, with regard to any
6 licensee or registrant for any one or combination of the
7 following causes:

8 1. Material misstatement in furnishing information to
9 the Department.

10 2. Violations of this Act, or the rules promulgated
11 hereunder.

12 3. Making any misrepresentation for the purpose of
13 obtaining licenses.

14 4. A pattern of conduct which demonstrates
15 incompetence or unfitness to practice.

16 5. Aiding or assisting another person in violating any
17 provision of this Act or rules.

18 6. Failing, within 60 days, to respond to a written
19 request made by the Department for information.

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

23 8. Discipline by another U.S. jurisdiction or foreign
24 nation, if at least one of the grounds for the discipline
25 is the same or substantially equivalent to those set forth
26 herein.

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

6 10. A finding by the Department that the licensee,
7 after having his license placed on probationary status has
8 violated the terms of probation.

9 11. Selling or engaging in the sale of drug samples
10 provided at no cost by drug manufacturers.

11 12. Physical illness, including but not limited to,
12 deterioration through the aging process, or loss of motor
13 skill which results in the inability to practice the
14 profession with reasonable judgment, skill or safety.

15 13. A finding that licensure or registration has been
16 applied for or obtained by fraudulent means.

17 14. The applicant or licensee has been convicted in
18 state or federal court of or entered a plea of guilty, nolo
19 contendere, or the equivalent in a state or federal court
20 to any crime which is a felony or any misdemeanor related
21 to the practice of pharmacy or which an essential element
22 is dishonesty.

23 15. Habitual or excessive use or addiction to alcohol,
24 narcotics, stimulants or any other chemical agent or drug
25 which results in the inability to practice with reasonable
26 judgment, skill or safety.

1 16. Willfully making or filing false records or reports
2 in the practice of pharmacy, including, but not limited to
3 false records to support claims against the medical
4 assistance program of the Department of Healthcare and
5 Family Services (formerly Department of Public Aid) under
6 the Public Aid Code.

7 17. Gross and willful overcharging for professional
8 services including filing false statements for collection
9 of fees for which services are not rendered, including, but
10 not limited to, filing false statements for collection of
11 monies for services not rendered from the medical
12 assistance program of the Department of Healthcare and
13 Family Services (formerly Department of Public Aid) under
14 the Public Aid Code.

15 18. Dispensing prescription drugs without receiving a
16 written or oral prescription in violation of law.

17 19. Upon a finding of a substantial discrepancy in a
18 Department audit of a prescription drug, including
19 controlled substances, as that term is defined in this Act
20 or in the Illinois Controlled Substances Act.

21 20. Physical or mental illness or any other impairment
22 or disability, including without limitation deterioration
23 through the aging process or loss of motor skills that
24 results in the inability to practice with reasonable
25 judgment, skill or safety, or mental incompetence, as
26 declared by a court of competent jurisdiction.

1 21. Violation of the Health Care Worker Self-Referral
2 Act.

3 22. Failing to sell or dispense any drug, medicine, or
4 poison in good faith. "Good faith", for the purposes of
5 this Section, has the meaning ascribed to it in subsection
6 (u) of Section 102 of the Illinois Controlled Substances
7 Act. "Good faith", as used in this item (22), shall not be
8 limited to the sale or dispensing of controlled substances,
9 but shall apply to all prescription drugs.

10 23. Interfering with the professional judgment of a
11 pharmacist by any registrant under this Act, or his or her
12 agents or employees.

13 24. Failing to report within 60 days to the Department
14 any adverse final action taken against a pharmacist,
15 pharmacist technician, or certified pharmacist technician
16 by another licensing jurisdiction in any other state or any
17 territory of the United States or any foreign jurisdiction,
18 any governmental agency, any law enforcement agency, or any
19 court for acts or conduct similar to acts or conduct that
20 would constitute grounds for discipline as defined in this
21 Section.

22 25. Failing to comply with a subpoena issued in
23 accordance with Section 35.5 of this Act.

24 26. Disclosing protected health information in
25 violation of any State or federal law.

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

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

7 (c) The Department shall revoke the license or certificate
8 of registration issued under the provisions of this Act or any
9 prior Act of this State of any person who has been convicted a
10 second time of committing any felony under the Illinois
11 Controlled Substances Act, or who has been convicted a second
12 time of committing a Class 1 felony under Sections 8A-3 and
13 8A-6 of the Illinois Public Aid Code. A person whose license or
14 certificate of registration issued under the provisions of this
15 Act or any prior Act of this State is revoked under this
16 subsection (c) shall be prohibited from engaging in the
17 practice of pharmacy in this State.

18 (d) Fines may be imposed in conjunction with other forms of
19 disciplinary action, but shall not be the exclusive disposition
20 of any disciplinary action arising out of conduct resulting in
21 death or injury to a patient. Fines shall be paid within 60
22 days or as otherwise agreed to by the Department. Any funds
23 collected from such fines shall be deposited in the Illinois
24 State Pharmacy Disciplinary Fund.

25 (e) The entry of an order or judgment by any circuit court
26 establishing that any person holding a license or certificate

1 under this Act is a person in need of mental treatment operates
2 as a suspension of that license. A licensee may resume his or
3 her practice only upon the entry of an order of the Department
4 based upon a finding by the Board that he or she has been
5 determined to be recovered from mental illness by the court and
6 upon the Board's recommendation that the licensee be permitted
7 to resume his or her practice.

8 (f) The Department shall issue quarterly to the Board a
9 status of all complaints related to the profession received by
10 the Department.

11 (g) In enforcing this Section, the Board or the Department,
12 upon a showing of a possible violation, may compel any licensee
13 or applicant for licensure under this Act to submit to a mental
14 or physical examination or both, as required by and at the
15 expense of the Department. The examining physician, or
16 multidisciplinary team involved in providing physical and
17 mental examinations led by a physician consisting of one or a
18 combination of licensed physicians, licensed clinical
19 psychologists, licensed clinical social workers, licensed
20 clinical professional counselors, and other professional and
21 administrative staff, shall be those specifically designated
22 by the Department. The Board or the Department may order the
23 examining physician or any member of the multidisciplinary team
24 to present testimony concerning this mental or physical
25 examination of the licensee or applicant. No information,
26 report, or other documents in any way related to the

1 examination shall be excluded by reason of any common law or
2 statutory privilege relating to communication between the
3 licensee or applicant and the examining physician or any member
4 of the multidisciplinary team. The individual to be examined
5 may have, at his or her own expense, another physician of his
6 or her choice present during all aspects of the examination.
7 Failure of any individual to submit to a mental or physical
8 examination when directed shall be grounds for suspension of
9 his or her license until such time as the individual submits to
10 the examination if the Board finds, after notice and hearing,
11 that the refusal to submit to the examination was without
12 reasonable cause. If the Board finds a pharmacist, certified
13 pharmacy technician, or pharmacy technician unable to practice
14 because of the reasons set forth in this Section, the Board
15 shall require such pharmacist, certified pharmacy technician,
16 or pharmacy technician to submit to care, counseling, or
17 treatment by physicians or other appropriate health care
18 providers approved or designated by the Board as a condition
19 for continued, reinstated, or renewed licensure to practice.
20 Any pharmacist, certified pharmacy technician, or pharmacy
21 technician whose license was granted, continued, reinstated,
22 renewed, disciplined, or supervised, subject to such terms,
23 conditions, or restrictions, and who fails to comply with such
24 terms, conditions, or restrictions or to complete a required
25 program of care, counseling, or treatment, as determined by the
26 chief pharmacy coordinator or a deputy pharmacy coordinator,

1 shall be referred to the Secretary for a determination as to
2 whether the licensee shall have his or her license suspended
3 immediately, pending a hearing by the Board. In instances in
4 which the Secretary immediately suspends a license under this
5 subsection (g), a hearing upon such person's license must be
6 convened by the Board within 15 days after such suspension and
7 completed without appreciable delay. The Board shall have the
8 authority to review the subject pharmacist's, certified
9 pharmacy technician's, or pharmacy technician's record of
10 treatment and counseling regarding the impairment.

11 (h) The administering, dispensing, prescribing,
12 purchasing, acquisition, possession, or use of naloxone shall
13 not constitute unprofessional conduct under this Act, or be in
14 violation of any provisions under this Act, by any person
15 licensed under this Act, if the unprofessional conduct or
16 violation results from a good faith effort to assist: (1) a
17 person experiencing, or likely to experience, an
18 opiate-related overdose; or (2) a family member, friend, or
19 other person in a position to assist a person experiencing, or
20 likely to experience, an opiate-related overdose.

21 (Source: P.A. 95-331, eff. 8-21-07; 95-689, eff. 10-29-07;
22 96-673, eff. 1-1-10.)

23 Section 25. The Physician Assistant Practice Act of 1987 is
24 amended by changing Section 21 as follows:

1 (225 ILCS 95/21) (from Ch. 111, par. 4621)

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

3 Sec. 21. Grounds for disciplinary action.

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

11 (1) Material misstatement in furnishing information to
12 the Department.

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

15 (3) Conviction of or entry of a plea of guilty or nolo
16 contendere to any crime that is a felony under the laws of
17 the United States or any state or territory thereof or that
18 is a misdemeanor of which an essential element is
19 dishonesty or that is directly related to the practice of
20 the profession.

21 (4) Making any misrepresentation for the purpose of
22 obtaining licenses.

23 (5) Professional incompetence.

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

26 (7) Failing, within 60 days, to provide information in

1 response to a written request made by the Department.

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

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

9 (10) Discipline by another U.S. jurisdiction or
10 foreign nation, if at least one of the grounds for
11 discipline is the same or substantially equivalent to those
12 set forth in this Section.

13 (11) Directly or indirectly giving to or receiving from
14 any person, firm, corporation, partnership, or association
15 any fee, commission, rebate or other form of compensation
16 for any professional services not actually or personally
17 rendered.

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

21 (13) Abandonment of a patient.

22 (14) 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 (15) Willfully failing to report an instance of
26 suspected child abuse or neglect as required by the Abused

1 and Neglected Child Reporting Act.

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

7 (17) 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 (18) (Blank).

15 (19) Gross negligence resulting in permanent injury or
16 death of a patient.

17 (20) Employment of fraud, deception or any unlawful
18 means in applying for or securing a license as a physician
19 assistant.

20 (21) Exceeding the authority delegated to him or her by
21 his or her supervising physician in a written supervision
22 agreement.

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

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

1 Act.

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

4 (25) Making a false or misleading statement regarding
5 his or her skill or the efficacy or value of the medicine,
6 treatment, or remedy prescribed by him or her in the course
7 of treatment.

8 (26) Allowing another person to use his or her license
9 to practice.

10 (27) Prescribing, selling, administering,
11 distributing, giving, or self-administering a drug
12 classified as a controlled substance (designated product)
13 or narcotic for other than medically-accepted therapeutic
14 purposes.

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

18 (29) A pattern of practice or other behavior that
19 demonstrates incapacity or incompetence to practice under
20 this Act.

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

23 (31) Exceeding the prescriptive authority delegated by
24 the supervising physician or violating the written
25 supervision agreement delegating that authority.

26 (32) Practicing without providing to the Department a

1 notice of supervision or delegation of prescriptive
2 authority.

3 (b) The Department may, without a hearing, refuse to issue
4 or renew or may suspend the license of any person who fails to
5 file a return, or to pay the tax, penalty or interest shown in
6 a filed return, or to pay any final assessment of the tax,
7 penalty, or interest as required by any tax Act administered by
8 the Illinois Department of Revenue, until such time as the
9 requirements of any such tax Act are satisfied.

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

20 (d) In enforcing this Section, the Department upon a
21 showing of a possible violation may compel an individual
22 licensed to practice under this Act, or who has applied for
23 licensure under this Act, to submit to a mental or physical
24 examination, or both, as required by and at the expense of the
25 Department. The Department may order the examining physician to
26 present testimony concerning the mental or physical

1 examination of the licensee or applicant. No information shall
2 be excluded by reason of any common law or statutory privilege
3 relating to communications between the licensee or applicant
4 and the examining physician. The examining physicians shall be
5 specifically designated by the Department. The individual to be
6 examined may have, at his or her own expense, another physician
7 of his or her choice present during all aspects of this
8 examination. Failure of an individual to submit to a mental or
9 physical examination, when directed, shall be grounds for
10 suspension of his or her license until the individual submits
11 to the examination if the Department finds, after notice and
12 hearing, that the refusal to submit to the examination was
13 without reasonable cause.

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

1 for a determination as to whether the individual shall have his
2 or her license suspended immediately, pending a hearing by the
3 Department.

4 In instances in which the Secretary immediately suspends a
5 person's license under this Section, a hearing on that person's
6 license must be convened by the Department within 30 days after
7 the suspension and completed without appreciable delay. The
8 Department shall have the authority to review the subject
9 individual'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 and affected under
14 this Section shall be afforded an opportunity to demonstrate to
15 the Department that he or she can resume practice in compliance
16 with acceptable and prevailing standards under the provisions
17 of his or her license.

18 (e) The administering, dispensing, prescribing,
19 purchasing, acquisition, possession, or use of naloxone shall
20 not constitute unprofessional conduct under this Act, or be in
21 violation of any provisions under this Act, by any person
22 licensed under this Act, if the unprofessional conduct or
23 violation results from a good faith effort to assist: (1) a
24 person experiencing, or likely to experience, an
25 opiate-related overdose; or (2) a family member, friend, or
26 other person in a position to assist a person experiencing, or

1 likely to experience, an opiate-related overdose.

2 (Source: P.A. 95-703, eff. 12-31-07; 96-268, eff. 8-11-09.)

3 Section 30. The Cannabis Control Act is amended by changing
4 Section 4 and by adding Section 10.4 as follows:

5 (720 ILCS 550/4) (from Ch. 56 1/2, par. 704)

6 Sec. 4. Except as otherwise provided in Section 10.4, it ~~it~~
7 is unlawful for any person knowingly to possess cannabis. Any
8 person who violates this section with respect to:

9 (a) not more than 2.5 grams of any substance containing
10 cannabis is guilty of a Class C misdemeanor;

11 (b) more than 2.5 grams but not more than 10 grams of
12 any substance containing cannabis is guilty of a Class B
13 misdemeanor;

14 (c) more than 10 grams but not more than 30 grams of
15 any substance containing cannabis is guilty of a Class A
16 misdemeanor; provided, that if any offense under this
17 subsection (c) is a subsequent offense, the offender shall
18 be guilty of a Class 4 felony;

19 (d) more than 30 grams but not more than 500 grams of
20 any substance containing cannabis is guilty of a Class 4
21 felony; provided that if any offense under this subsection
22 (d) is a subsequent offense, the offender shall be guilty
23 of a Class 3 felony;

24 (e) more than 500 grams but not more than 2,000 grams

1 of any substance containing cannabis is guilty of a Class 3
2 felony;

3 (f) more than 2,000 grams but not more than 5,000 grams
4 of any substance containing cannabis is guilty of a Class 2
5 felony;

6 (g) more than 5,000 grams of any substance containing
7 cannabis is guilty of a Class 1 felony.

8 (Source: P.A. 90-397, eff. 8-15-97.)

9 (720 ILCS 550/10.4 new)

10 Sec. 10.4. Immunity.

11 (a) A person acting in good faith who seeks medical
12 assistance for someone experiencing a drug-related overdose
13 shall not be charged or prosecuted for possession of cannabis
14 under Section 4, if the evidence for the charge of possession
15 of cannabis was obtained as a result of the person seeking
16 medical assistance.

17 (b) A person who experiences a drug-related overdose and is
18 in need of medical assistance shall not be charged or
19 prosecuted for possession of cannabis under Section 4, if the
20 evidence for the charge of possession of cannabis was obtained
21 as a result of the overdose and the need for medical
22 assistance.

23 (c) The protection in this Section from prosecution for
24 possession of cannabis under Section 4 shall not be grounds for
25 suppression of evidence in other criminal charges.

1 Section 35. The Illinois Controlled Substances Act is
2 amended by adding Sections 322 and 414 as follows:

3 (720 ILCS 570/322 new)

4 Sec. 322. Administration and possession of naloxone. The
5 provisions of this Article do not apply to a person acting in
6 good faith who receives a naloxone prescription, possesses
7 naloxone, and administers naloxone to an individual suffering
8 from an apparent opiate-related overdose.

9 (720 ILCS 570/414 new)

10 Sec. 414. Immunity.

11 (a) A person acting in good faith who seeks medical
12 assistance for someone experiencing a drug-related overdose
13 shall not be charged or prosecuted for possession of a
14 controlled or counterfeit substance or a controlled substance
15 analog under Section 402, if the evidence for the charge of
16 possession of a controlled or counterfeit substance or a
17 controlled substance analog was obtained as a result of the
18 person seeking medical assistance.

19 (b) A person acting in good faith may receive a naloxone
20 prescription, possess naloxone, and administer naloxone to an
21 individual suffering from an apparent opiate-related overdose.

22 (c) A person who experiences a drug-related overdose and is
23 in need of medical assistance shall not be charged or

1 prosecuted for possession of a controlled or counterfeit
2 substance or a controlled substance analog under Section 402,
3 if the evidence for the charge of possession of a controlled or
4 counterfeit substance or a controlled substance analog was
5 obtained as a result of the overdose and the need for medical
6 assistance.

7 (d) The protection in this Section from prosecution for
8 possession of a controlled or counterfeit substance or a
9 controlled substance analog under Section 402 shall not be
10 grounds for suppression of evidence in other criminal charges.

11 Section 40. The Methamphetamine Control and Community
12 Protection Act is amended by changing Section 60 and by adding
13 Section 101 as follows:

14 (720 ILCS 646/60)

15 Sec. 60. Methamphetamine possession.

16 (a) Except as otherwise provided in Section 101, it ~~is~~ is
17 unlawful knowingly to possess methamphetamine or a substance
18 containing methamphetamine.

19 (b) A person who violates subsection (a) is subject to the
20 following penalties:

21 (1) A person who possesses less than 5 grams of
22 methamphetamine or a substance containing methamphetamine
23 is guilty of a Class 3 felony.

24 (2) A person who possesses 5 or more grams but less

1 than 15 grams of methamphetamine or a substance containing
2 methamphetamine is guilty of a Class 2 felony.

3 (3) A person who possesses 15 or more grams but less
4 than 100 grams of methamphetamine or a substance containing
5 methamphetamine is guilty of a Class 1 felony.

6 (4) A person who possesses 100 or more grams but less
7 than 400 grams of methamphetamine or a substance containing
8 methamphetamine is guilty of a Class X felony, subject to a
9 term of imprisonment of not less than 6 years and not more
10 than 30 years, and subject to a fine not to exceed
11 \$100,000.

12 (5) A person who possesses 400 or more grams but less
13 than 900 grams of methamphetamine or a substance containing
14 methamphetamine is guilty of a Class X felony, subject to a
15 term of imprisonment of not less than 8 years and not more
16 than 40 years, and subject to a fine not to exceed
17 \$200,000.

18 (6) A person who possesses 900 or more grams of
19 methamphetamine or a substance containing methamphetamine
20 is guilty of a Class X felony, subject to a term of
21 imprisonment of not less than 10 years and not more than 50
22 years, and subject to a fine not to exceed \$300,000.

23 (Source: P.A. 94-556, eff. 9-11-05.)

24 (720 ILCS 646/101 new)

25 Sec. 101. Immunity.

1 (a) A person acting in good faith who seeks medical
2 assistance for someone experiencing a drug-related overdose
3 shall not be charged or prosecuted for possession of
4 methamphetamine or a substance containing methamphetamine
5 under Section 60, if the evidence for the charge of possession
6 of methamphetamine or a substance containing methamphetamine
7 was obtained as a result of the person seeking medical
8 assistance.

9 (b) A person who experiences a drug-related overdose and is
10 in need of medical assistance shall not be charged or
11 prosecuted for possession of methamphetamine or a substance
12 containing methamphetamine under Section 60, if the evidence
13 for the charge of possession of methamphetamine or a substance
14 containing methamphetamine was obtained as a result of the
15 overdose and the need for medical assistance.

16 (c) The protection in this Section from prosecution for
17 possession of methamphetamine or a substance containing
18 methamphetamine under Section 60 shall not be grounds for
19 suppression of evidence in other criminal charges.

20 Section 45. The Unified Code of Corrections is amended by
21 changing Section 5-5-3.1 as follows:

22 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

23 Sec. 5-5-3.1. Factors in Mitigation.

24 (a) The following grounds shall be accorded weight in favor

1 of withholding or minimizing a sentence of imprisonment:

2 (1) The defendant's criminal conduct neither caused
3 nor threatened serious physical harm to another.

4 (2) The defendant did not contemplate that his criminal
5 conduct would cause or threaten serious physical harm to
6 another.

7 (3) The defendant acted under a strong provocation.

8 (4) There were substantial grounds tending to excuse or
9 justify the defendant's criminal conduct, though failing
10 to establish a defense.

11 (5) The defendant's criminal conduct was induced or
12 facilitated by someone other than the defendant.

13 (6) The defendant has compensated or will compensate
14 the victim of his criminal conduct for the damage or injury
15 that he sustained.

16 (7) The defendant has no history of prior delinquency
17 or criminal activity or has led a law-abiding life for a
18 substantial period of time before the commission of the
19 present crime.

20 (8) The defendant's criminal conduct was the result of
21 circumstances unlikely to recur.

22 (9) The character and attitudes of the defendant
23 indicate that he is unlikely to commit another crime.

24 (10) The defendant is particularly likely to comply
25 with the terms of a period of probation.

26 (11) The imprisonment of the defendant would entail

1 excessive hardship to his dependents.

2 (12) The imprisonment of the defendant would endanger
3 his or her medical condition.

4 (13) The defendant was mentally retarded as defined in
5 Section 5-1-13 of this Code.

6 (14) The defendant was making a good faith effort to
7 obtain or provide medical assistance for someone who is
8 experiencing a drug-related overdose.

9 (b) If the court, having due regard for the character of
10 the offender, the nature and circumstances of the offense and
11 the public interest finds that a sentence of imprisonment is
12 the most appropriate disposition of the offender, or where
13 other provisions of this Code mandate the imprisonment of the
14 offender, the grounds listed in paragraph (a) of this
15 subsection shall be considered as factors in mitigation of the
16 term imposed.

17 (Source: P.A. 91-357, eff. 7-29-99.)

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 301/5-23

4 225 ILCS 60/22 from Ch. 111, par. 4400-22

5 225 ILCS 65/50-50 was 225 ILCS 65/10-5

6 225 ILCS 85/30 from Ch. 111, par. 4150

7 225 ILCS 95/21 from Ch. 111, par. 4621

8 720 ILCS 550/4 from Ch. 56 1/2, par. 704

9 720 ILCS 550/10.4 new

10 720 ILCS 570/322 new

11 720 ILCS 570/414 new

12 720 ILCS 646/60

13 720 ILCS 646/101 new

14 730 ILCS 5/5-5-3.1 from Ch. 38, par. 1005-5-3.1