



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3684

Introduced 2/10/2012, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

See Index

Amends the Professional Counselor and Clinical Professional Counselor Licensing Act. Renames the Act the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act. Creates new provisions concerning references to the Department or Secretary of Professional Regulation; licensed professional counselors practice requirements; Board recommendations; disciplinary actions; hearings; recommendations for disciplinary actions; actions by the Secretary; revocation orders; confidential information; disclosures; and injunctions. Also makes changes in provisions concerning the declaration of public policy; definitions; exemptions; restrictions and limitations; unlicensed practice; violations; civil penalties; powers and duties of the Department; Professional Counselor and Examining and Disciplinary Board; qualifications for a license; licenses; renewals; restorations; person in military service; inactive status; fees; checks or orders dishonored; privileged communications and exceptions; grounds for discipline; refusal, revocation, or suspension of licensure; violations; injunctions; cease and desist orders; investigations; notice and hearings; findings and recommendations; the Board; rehearings; the Secretary; rehearings; appointment of a hearing officer; order or certified copy; prima facie proof; restoration of suspended or revoked licenses; summary suspension of license; Administrative review; venue; and the Administrative Procedure Act and applications. Also amends the Elder Abuse and Neglect Act. Amends the Regulatory Sunset Act to extend the Professional Counselor and Clinical Professional Counselor Licensing Act from January 1, 2013 to January 1, 2023. Effective immediately.

LRB097 16542 CEL 61712 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 1. The Regulatory Sunset Act is amended by changing
5 Section 4.23 and by adding Section 4.33 as follows:

6 (5 ILCS 80/4.23)

7 Sec. 4.23. Acts and Sections repealed on January 1, 2013.

8 The following Acts and Sections of Acts are repealed on January
9 1, 2013:

10 The Dietetic and Nutrition Services Practice Act.

11 The Elevator Safety and Regulation Act.

12 The Fire Equipment Distributor and Employee Regulation Act
13 of 2011.

14 The Funeral Directors and Embalmers Licensing Code.

15 The Naprapathic Practice Act.

16 ~~The Professional Counselor and Clinical Professional~~
17 ~~Counselor Licensing Act.~~

18 The Wholesale Drug Distribution Licensing Act.

19 Section 2.5 of the Illinois Plumbing License Law.

20 (Source: P.A. 95-331, eff. 8-21-07; 96-1499, eff. 1-18-11.)

21 (5 ILCS 80/4.33 new)

22 Sec. 4.33. Act repealed on January 1, 2023. The following

1 Act is repealed on January 1, 2023:

2 The Professional Counselor and Clinical Professional
3 Counselor Licensing and Practice Act.

4 Section 5. The Professional Counselor and Clinical
5 Professional Counselor Licensing Act is amended by changing
6 Sections 1, 5, 10, 15, 20, 21, 25, 30, 45, 50, 60, 65, 75, 80,
7 85, 90, 100, 110, 115, 120, 125, 130, 135, 145, 150, and 165
8 and by adding Sections 18, 43, 92, 93, 123, 147, 163, and 164
9 as follows:

10 (225 ILCS 107/1)

11 (Section scheduled to be repealed on January 1, 2013)

12 Sec. 1. Short title. This Act may be cited as the
13 Professional Counselor and Clinical Professional Counselor
14 Licensing and Practice Act.

15 (Source: P.A. 87-1011.)

16 (225 ILCS 107/5)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 5. Declaration of public policy. The practice of
19 professional counseling and clinical professional counseling
20 is hereby declared to affect the public health, safety and
21 welfare, and to be subject to regulation in the public
22 interest. The purpose of the Act is to protect and benefit the
23 public by setting standards of qualifications, education,

1 training, and experience for those who seek to engage in the
2 independent practice of clinical professional counseling and
3 in the practice of professional counseling in the State of
4 Illinois and to obtain a license and hold the title of
5 professional counselor, to promote high standards of
6 professional performance for those licensed to practice
7 professional counseling and clinical professional counseling
8 in the State of Illinois, and to protect the public from
9 unprofessional conduct by persons licensed to practice
10 professional counseling and the independent practice of
11 clinical professional counseling.

12 (Source: P.A. 87-1011.)

13 (225 ILCS 107/10)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 10. Definitions. As used in this Act:

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 "Secretary" means the Secretary of Financial and
19 Professional Regulation.

20 ~~"Director" means the Director of Professional Regulation.~~

21 "Board" means the Professional Counselor Licensing and
22 Disciplinary Board as appointed by the Secretary ~~Director~~.

23 "Person" means an individual, association, partnership, or
24 corporation.

25 "Counseling" means the therapeutic process of (i)

1 conducting assessments and diagnoses for the purpose of
2 establishing treatment goals and objectives and (ii) planning,
3 implementing, and evaluating treatment plans using treatment
4 interventions to facilitate human development and to identify
5 and remediate mental, emotional, or behavioral disorders and
6 associated distresses which interfere with mental health.

7 "Professional counseling" means the provision of services
8 to individuals, couples, groups, families, and organizations
9 in any one or more of the fields of professional counseling.
10 Professional counseling includes, but is not limited to:

11 (1) social, emotional, educational, and career testing
12 and evaluation;

13 (2) a professional relationship between a counselor
14 and a client in which the counselor provides assistance in
15 coping with life issues that include relationships,
16 conflicts, problem solving, decision making, and
17 developmental concerns; and

18 (3) research.

19 Professional counseling may also include clinical
20 professional counseling as long as it is not conducted in an
21 independent private practice as defined in this Act.

22 "Clinical professional counseling" means the provision of
23 professional counseling and mental health services, which
24 includes, but is not limited to, the application of clinical
25 counseling theory and techniques to prevent and alleviate
26 mental and emotional disorders and psychopathology and to

1 promote optimal mental health, rehabilitation, treatment,
2 testing, assessment, and evaluation. It also includes clinical
3 counseling and psychotherapy in a professional relationship to
4 assist individuals, couples, families, groups, and
5 organizations to alleviate emotional disorders, to understand
6 conscious and unconscious motivation, to resolve emotional,
7 relationship, and attitudinal conflicts, and to modify
8 behaviors that interfere with effective emotional, social,
9 adaptive, and intellectual functioning.

10 "Licensed professional counselor" and "professional
11 counselor" means a person who holds a license authorizing the
12 practice of professional counseling as defined in this Act, as
13 long as it is not conducted in an independent practice, as
14 defined in this Section.

15 "Independent practice of clinical professional counseling"
16 means providing the services of or engaging in the practice of
17 clinical professional counseling, as defined in this Act, by an
18 individual who regulates and is responsible for her or his own
19 practice or treatment procedures.

20 "Licensed clinical professional counselor" and "clinical
21 professional counselor" means a person who holds a license
22 authorizing the independent practice of clinical professional
23 counseling in private practice as defined in this Act.

24 "Independent private practice of clinical professional
25 counseling" means the application of clinical professional
26 counseling knowledge and skills by a licensed clinical

1 professional counselor who (i) regulates and is responsible for
2 her or his own practice or treatment procedures and (ii) is
3 self-employed or works in a group practice or setting not
4 qualified under Internal Revenue Service regulations as a
5 not-for-profit business.

6 "Clinical supervision" or "supervision" means review of
7 aspects of counseling and case management ~~in a face to face~~
8 meeting with the person under supervision.

9 "Qualified supervisor" or "qualified clinical supervisor"
10 means any person who is a licensed clinical professional
11 counselor, licensed clinical social worker, licensed clinical
12 psychologist, psychiatrist as defined in Section 1-121 of the
13 Mental Health and Developmental Disabilities Code, or other
14 supervisor as defined by rule. A qualified supervisor may be
15 provided at the applicant's place of work, or may be hired by
16 the applicant to provide supervision.

17 "License" means that which is required to practice
18 professional counseling or clinical professional counseling as
19 defined in this Act.

20 "Address of record" means the address recorded by the
21 Department in the applicant's or licensee's application file or
22 license file, as maintained by the Department's licensure
23 maintenance unit.

24 (Source: P.A. 92-719, eff. 7-25-02.)

25 (225 ILCS 107/15)

1 (Section scheduled to be repealed on January 1, 2013)

2 Sec. 15. Exemptions.

3 (a) This Act does not prohibit any persons legally
4 regulated in this State by any other Act from engaging in the
5 practice for which they are authorized as long as they do not
6 represent themselves by the title of "professional counselor",
7 "licensed professional counselor", "clinical professional
8 counselor", or "licensed clinical professional counselor".
9 This Act does not prohibit the practice of nonregulated
10 professions whose practitioners are engaged in the delivery of
11 human services as long as these practitioners do not represent
12 themselves as or use the title of "professional counselor",
13 "licensed professional counselor", "clinical professional
14 counselor", or "licensed clinical professional counselor".

15 (b) Nothing in this Act shall be construed to limit the
16 activities and services of a student, intern, or resident in
17 professional counseling or clinical professional counseling
18 seeking to fulfill educational requirements in order to qualify
19 for a license under this Act if these activities and services
20 constitute a part of the student's supervised course of study,
21 ~~or an individual seeking to fulfill the post-degree experience~~
22 ~~requirements in order to qualify for licensing under this Act,~~
23 as long as the activities and services are not conducted in an
24 independent practice, as defined in this Act, if the activities
25 and services are supervised as specified in this Act, and that
26 the student, intern, or resident is designated by a title

1 "intern" or "resident" or other designation of trainee status.
2 Nothing contained in this Section shall be construed to permit
3 students, interns, or residents to offer their services as
4 professional counselors or clinical professional counselors to
5 any other person ~~and to accept remuneration~~ for such
6 professional counseling or clinical professional counseling
7 services other than as specifically excepted in this Section,
8 unless they have been licensed under this Act.

9 (c) Corporations, partnerships, and associations may
10 employ practicum students or ~~interns, or post degree~~
11 ~~candidates~~ seeking to fulfill educational requirements ~~or the~~
12 ~~professional experience requirements needed to qualify for a~~
13 ~~license under this Act~~ if their activities and services
14 constitute a part of the student's supervised course of study
15 ~~or post degree professional experience requirements~~. Nothing
16 in this paragraph shall prohibit a corporation, partnership, or
17 association from contracting with a licensed health care
18 professional to provide services that they are licensed to
19 provide.

20 (d) Nothing in this Act shall prevent the employment, by a
21 professional counselor or clinical professional counselor,
22 person, association, partnership, or a corporation furnishing
23 professional counseling or clinical professional counseling
24 services for remuneration, of persons not licensed as
25 professional counselors or clinical professional counselors
26 under this Act to perform services in various capacities as

1 needed if these persons are not in any manner held out to the
2 public or do not hold themselves out to the public by any title
3 or designation stating or implying that they are professional
4 counselors or clinical professional counselors or performing
5 professional counseling services or clinical professional
6 counseling services.

7 (e) Nothing in this Act shall be construed to limit the
8 services of a person, not licensed under the provisions of this
9 Act, in the employ of a federal, State, county, or municipal
10 agency or other political subdivision or not-for-profit
11 corporation providing human services if (1) the services are a
12 part of the duties in his or her salaried position, (2) the
13 services are performed solely on behalf of his or her employer,
14 and (3) that person does not in any manner represent himself or
15 herself as or use the title of "professional counselor",
16 "licensed professional counselor", "clinical professional
17 counselor", or "licensed clinical professional counselor".

18 (f) Duly recognized members of any religious organization
19 shall not be restricted from functioning in their ministerial
20 capacity provided they do not represent themselves as being
21 professional counselors or clinical professional counselors,
22 or as providing "professional counseling" or "clinical
23 professional counseling". This Act shall not apply or be
24 construed so as to apply to the employees or volunteers ~~agents~~
25 of a church or religious organization or an organization owned,
26 controlled, or affiliated with a church or religious

1 organization, unless the church, religious organization, or
2 owned, controlled, or affiliated organization designates or
3 holds these employees or volunteers ~~agents~~ out to the public as
4 professional counselors or clinical professional counselors or
5 holds out their services as being "professional counseling" or
6 "clinical professional counseling".

7 (g) Nothing in this Act shall prohibit individuals not
8 licensed under the provisions of this Act who are employees or
9 volunteers of ~~work in~~ self-help groups or programs or
10 not-for-profit organizations from providing services in those
11 groups, programs, or organizations, as long as that person is
12 not in any manner held out to the public as a professional
13 counselor or clinical professional counselor ~~as long as these~~
14 ~~persons are not in any manner held out to the public as~~
15 ~~practicing professional counseling or clinical professional~~
16 ~~counseling,~~ or do not hold themselves out to the public by any
17 title or designation stating or implying that they are
18 professional counselors or clinical professional counselors.

19 (h) Nothing in this Act shall be construed to limit the
20 activities and use of the official title of "professional
21 counselor" or "clinical professional counselor" on the part of
22 a person not licensed under this Act who is an academic
23 employee of a duly chartered institution of higher education
24 and who holds educational and professional qualifications
25 equivalent to those required for licensing under this Act,
26 insofar as such activities are performed in the person's role

1 as an academic employee, or insofar as such person engages in
2 public speaking with or without remuneration.

3 (i) Nothing in this Act shall be construed to require
4 licensure under this Act or limit the services of a school
5 counselor certified by the State Teacher Certification Board
6 and employed as authorized by Section 10-22-24a or any other
7 provision of the School Code as long as that person is not in
8 any manner held out to the public as a "professional counselor"
9 or "clinical professional counselor" or does not hold out his
10 or her services as being "professional counseling" or "clinical
11 professional counseling".

12 (j) Nothing in this Act shall be construed to require any
13 hospital, clinic, home health agency, hospice, or other entity
14 that provides health care to employ or to contract with a
15 person licensed under this Act to provide professional
16 counseling or clinical professional counseling services. These
17 persons may not hold themselves out or represent themselves to
18 the public as being licensed under this Act.

19 (k) Nothing in this Act shall be construed to require
20 licensure under this Act or limit the services of a person who
21 is an employee, as defined by federal Internal Revenue Service
22 regulations, of ~~employed by~~ a private elementary or secondary
23 school who provides counseling within the scope of his or her
24 employment as long as that person is not in any manner held out
25 to the public as a "professional counselor" or "clinical
26 professional counselor" or does not hold out his or her

1 services as being "professional counseling" or "clinical
2 professional counseling".

3 (l) Nothing in this Act shall be construed to require
4 licensure under this Act or limit the services of a rape crisis
5 counselor who is an employee or volunteer of a rape crisis
6 organization as defined in Section 8-802.1 of the Code of Civil
7 Procedure as long as that person is not in any manner held out
8 to the public as a "professional counselor" or "clinical
9 professional counselor" or does not hold out his or her
10 services as being "professional counseling" or "clinical
11 professional counseling".

12 (m) Nothing in this Act shall be construed to prevent any
13 licensed social worker, licensed clinical social worker, or
14 licensed clinical psychologist from practicing professional
15 counseling as long as that person is not in any manner held out
16 to the public as a "professional counselor" or "clinical
17 professional counselor" or does not hold out his or her
18 services as being "professional counseling" or "clinical
19 professional counseling".

20 (n) Nothing in this Act shall be construed to limit the
21 activities and use of the official title of "professional
22 counselor" or "clinical professional counselor" on the part of
23 a person not licensed under this Act who is a physician
24 licensed to practice medicine in all of its branches under the
25 Medical Practice Act of 1987.

26 (o) Nothing in this Act shall be construed to require

1 licensure under this Act or limit the services of a domestic
2 violence counselor who is an employee or volunteer of a
3 domestic violence program as defined in Section 227 of the
4 Illinois Domestic Violence Act of 1986.

5 (Source: P.A. 92-719, eff. 7-25-02.)

6 (225 ILCS 107/18 new)

7 Sec. 18. Licensed professional counselors practice
8 requirements.

9 (a) Licensed professional counselors may not engage in the
10 independent practice of clinical professional counseling
11 without a clinical professional counselor license.

12 (b) Licensed professional counselors may provide clinical
13 professional counseling services as set forth in this Act. When
14 engaging in or providing clinical professional counseling
15 services as set forth in this Act, a licensed professional
16 counselor may only do so under the order, control, and full
17 professional responsibility of a licensed clinical
18 professional counselor, licensed clinical social worker,
19 licensed clinical psychologist, or a psychiatrist, as defined
20 in Section 1-121 of the Mental Health and Developmental
21 Disabilities Code and shall not regulate or be responsible for
22 his or her own practice or treatment procedures.

23 (c) When providing clinical professional counseling
24 services as set forth in this Act, in the independent practice
25 of clinical professional counseling, a licensed professional

1 counselor shall always operate and represent himself or herself
2 as an employee of the independent practice and may not work as
3 an independent contractor as defined by federal Internal
4 Revenue Service regulations.

5 (225 ILCS 107/20)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 20. Restrictions and limitations.

8 (a) No person shall, without a valid license as a
9 professional counselor issued by the Department: (i) in any
10 manner hold himself or herself out to the public as a
11 professional counselor under this Act; (ii) attach the title
12 "professional counselor" or "licensed professional counselor";
13 or (iii) offer to render or render to individuals,
14 corporations, or the public professional counseling services.

15 (b) No person shall, without a valid license as a clinical
16 professional counselor issued by the Department: (i) in any
17 manner hold himself or herself out to the public as a clinical
18 professional counselor or licensed clinical professional
19 counselor under this Act; (ii) attach the title "clinical
20 professional counselor" or "licensed clinical professional
21 counselor"; or (iii) offer to render to individuals,
22 corporations, or the public clinical professional counseling
23 services.

24 (c) Licensed professional counselors may not engage in
25 independent private practice as defined in this Act ~~without a~~

1 ~~clinical professional counseling license~~. In an independent
2 private practice, a licensed professional counselor must
3 practice at all times under the order, control, and full
4 professional responsibility as an employee, as defined by
5 federal Internal Revenue Service, or a volunteer of a licensed
6 clinical professional counselor, a licensed clinical social
7 worker, a licensed clinical psychologist, or a psychiatrist, as
8 defined in Section 1-121 of the Mental Health and Developmental
9 Disabilities Code.

10 (d) No association or partnership shall practice clinical
11 professional counseling or professional counseling unless
12 every member, partner, and employee of the association or
13 partnership who practices professional counseling or clinical
14 professional counseling, or who renders professional
15 counseling or clinical professional counseling services, holds
16 a currently valid license issued under this Act. No license
17 shall be issued to a corporation, the stated purpose of which
18 includes or which practices or which holds itself out as
19 available to practice professional counseling or clinical
20 professional counseling unless it is organized under the
21 Professional Service Corporation Act.

22 (e) Nothing in this Act shall be construed as permitting
23 persons licensed as professional counselors or clinical
24 professional counselors to engage in any manner in the practice
25 of medicine in all its branches as defined by law in this
26 State.

1 (f) When, in the course of providing professional
2 counseling or clinical professional counseling services to any
3 person, a professional counselor or clinical professional
4 counselor licensed under this Act finds indication of a disease
5 or condition that in his or her professional judgment requires
6 professional service outside the scope of practice as defined
7 in this Act, he or she shall refer that person to a physician
8 licensed to practice medicine in all of its branches or another
9 appropriate health care practitioner.

10 (Source: P.A. 94-765, eff. 1-1-07.)

11 (225 ILCS 107/21)

12 (Section scheduled to be repealed on January 1, 2013)

13 Sec. 21. Unlicensed practice; violation; civil penalty.

14 (a) Any person who practices, offers to practice, attempts
15 to practice, or holds himself or herself out to practice as a
16 clinical professional counselor or professional counselor
17 without being licensed or exempt under this Act shall, in
18 addition to any other penalty provided by law, pay a civil
19 penalty to the Department in an amount not to exceed \$10,000
20 ~~\$5,000~~ for each offense, as determined by the Department. The
21 civil penalty shall be assessed by the Department after a
22 hearing is held in accordance with the provisions set forth in
23 this Act regarding the provision of a hearing for the
24 discipline of a licensee.

25 (b) The Department may investigate any actual, alleged, or

1 suspected unlicensed activity.

2 (c) The civil penalty shall be paid within 60 days after
3 the effective date of the order imposing the civil penalty. The
4 order shall constitute a final judgment and may be filed and
5 execution had thereon in the same manner as any judgment from
6 any court of record.

7 (Source: P.A. 92-719, eff. 7-25-02.)

8 (225 ILCS 107/25)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 25. Powers and duties of the Department. Subject to
11 the provisions of this Act, the Department may exercise the
12 following functions, powers, and duties:

13 (a) Authorize examinations to ascertain the qualifications
14 and fitness of applicants for licensing as professional
15 counselors or clinical professional counselors and pass upon
16 the qualifications of applicants for licensure by endorsement.

17 (b) Conduct hearings on proceedings to refuse to issue or
18 renew or to revoke licenses or suspend, place on probation,
19 censure, or reprimand persons licensed under this Act, and to
20 refuse to issue or renew or to revoke licenses, or suspend,
21 place on probation, censure, or reprimand persons licensed
22 under this Act.

23 (c) Formulate rules and regulations required for the
24 administration of this Act.

25 (d) Maintain rosters of the names and addresses of all

1 licensees, and all persons whose licenses have been suspended,
2 revoked, or denied renewal for cause within the previous
3 calendar year. These rosters shall be available upon written
4 request and payment of the required fee.

5 (e) Establish rules for determining approved ~~undergraduate~~
6 ~~human services programs and~~ graduate professional counseling,
7 clinical professional counseling, psychology, rehabilitation
8 counseling and similar programs ~~and prepare and maintain a list~~
9 ~~of colleges and universities offering such programs whose~~
10 ~~graduates, if they otherwise meet the requirements of this Act,~~
11 ~~are eligible to apply for a license.~~

12 (Source: P.A. 87-1011.)

13 (225 ILCS 107/30) (from Ch. 111, par. 8451-30)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 30. Professional Counselor Examining and Disciplinary
16 Board.

17 (a) The Secretary ~~Director~~ shall appoint a Board which
18 shall serve in an advisory capacity to the Secretary ~~Director~~.
19 The Board shall consist of 7 persons, 2 of whom are licensed
20 solely as professional counselors, 3 of whom are licensed
21 solely as clinical professional counselors, one full-time
22 faculty member of an accredited college or university that is
23 engaged in training professional counselors or clinical
24 professional counselors who possesses the qualifications
25 substantially equivalent to the education and experience

1 requirements for a professional counselor or clinical
2 professional counselor, and one member of the public who is not
3 a licensed health care provider. In appointing members of the
4 Board, the Secretary ~~Director~~ shall give due consideration to
5 the adequate representation of the various fields of
6 counseling. In appointing members of the Board, the Secretary
7 ~~Director~~ shall give due consideration to recommendations by
8 members of the professions of professional counseling and
9 clinical professional counseling, the Statewide organizations
10 representing the interests of professional counselors and
11 clinical professional counselors, organizations representing
12 the interests of academic programs, rehabilitation counseling
13 programs, and approved counseling programs in the State of
14 Illinois.

15 (b) Members shall be appointed for and shall serve 4 year
16 terms and until their successors are appointed and qualified,
17 except that of the initial appointments 2 members shall be
18 appointed to serve for 2 years, 2 shall be appointed to serve
19 for 3 years, and the remaining shall be appointed to serve for
20 4 years and until their successors are appointed and qualified.
21 No member shall be reappointed to the Board for a term that
22 would cause continuous service on the Board to be longer than 8
23 years. Any appointment to fill a vacancy shall be for the
24 unexpired portion of the term.

25 (c) The membership of the Board should reasonably reflect
26 representation from different geographic areas of Illinois.

1 (d) Any member appointed to fill a vacancy shall be
2 eligible for reappointment to only one full term.

3 (e) The Secretary ~~Director~~ may remove any member for cause
4 at any time prior to the expiration of his or her term.

5 (f) The Board shall annually elect one of its members as
6 chairperson.

7 (g) The members of the Board shall be reimbursed for all
8 legitimate, necessary, and authorized expenses incurred in
9 attending the meetings of the Board.

10 (h) The Board may make recommendations on matters relating
11 to approving graduate counseling, rehabilitation counseling,
12 psychology, and related programs.

13 (i) The Board may make recommendations on matters relating
14 to continuing education including the number of hours necessary
15 for license renewal, waivers for those unable to meet such
16 requirements, and acceptable course content. These
17 recommendations shall not impose an undue burden on the
18 Department or an unreasonable restriction on those seeking
19 license renewal.

20 (j) The Secretary ~~Director~~ shall give due consideration to
21 all recommendations of the Board.

22 (k) A majority of the Board members currently appointed
23 shall constitute a quorum. A vacancy in the membership of the
24 Board shall not impair the right of a quorum to perform all of
25 the duties of the Board.

26 (l) Members of the Board shall have no criminal, civil, or

1 professional liability in an action based upon a disciplinary
2 proceeding or other activity performed in good faith as a
3 member of the Board, except for willful or wanton misconduct.

4 (m) An applicant or licensee must inform the Department of
5 any change of address, and such changes must be made either
6 through the Department's website or by contacting the
7 Department's licensure maintenance unit.

8 (Source: P.A. 92-719, eff. 7-25-02.)

9 (225 ILCS 107/43 new)

10 Sec. 43. Board recommendations. The Secretary shall
11 consider the recommendations of the Board in establishing
12 guidelines for professional conduct, for the conduct of formal
13 disciplinary proceedings brought under this Act, and for
14 establishing guidelines for qualifications of applicants.
15 Notice of proposed rulemaking shall be transmitted to the Board
16 and the Department shall review the response of the Board and
17 any recommendations made in their response. The Department, at
18 any time, may seek the expert advice and knowledge of the Board
19 on any matter relating to the administration or enforcement of
20 this Act.

21 (225 ILCS 107/45)

22 (Section scheduled to be repealed on January 1, 2013)

23 Sec. 45. Qualifications for a license.

24 (a) Professional counselor. A person is qualified to be

1 licensed as a licensed professional counselor, and the
2 Department shall issue a license authorizing the practice of
3 professional counseling to an applicant who:

4 (1) has applied in writing on the prescribed form and
5 has paid the required fee;

6 (2) is at least 21 years of age and has not engaged in
7 conduct or activities which would constitute grounds for
8 discipline under this Act;

9 (3) is a graduate of:

10 (A) a master's or doctoral level program in the
11 field of counseling, rehabilitation counseling,
12 clinical psychology, or similar degree program
13 approved by the Department; or

14 (B) in the case of an applicant who applied ~~applies~~
15 for licensure before the effective date of this
16 amendatory Act of the 96th General Assembly, an
17 approved baccalaureate program in human services or
18 similar degree program approved by the Department and
19 can document the equivalent of 5 years of full-time
20 satisfactory supervised experience, as established by
21 rule, under a qualified supervisor;

22 (4) has passed an examination for the practice of
23 professional counseling as authorized by the Department;
24 and

25 (5) has paid the fees required by this Act.

26 Any person who has received certification or licensure by

1 any State or national organization whose standards are accepted
2 by the Department as being substantially similar to the
3 standards in this Act may apply for a professional counselor
4 license and need not be examined further.

5 (b) Clinical professional counselor. A person is qualified
6 to be licensed as a clinical professional counselor, and the
7 Department shall issue a license authorizing the practice of
8 clinical professional counseling to an applicant who:

9 (1) has applied in writing on the prescribed form and
10 has paid the required fee;

11 (2) is at least 21 years of age and has not engaged in
12 conduct or activities which would constitute grounds for
13 discipline under this Act;

14 (3) is a graduate of:

15 (A) a master's level program in the field of
16 counseling, rehabilitation counseling, clinical
17 psychology, or similar degree program approved by the
18 Department and has completed the equivalent of 2 years
19 full-time satisfactory supervised employment or
20 experience working as a clinical counselor under the
21 direction of a qualified supervisor subsequent to the
22 degree; or

23 (B) a doctoral program in the field of counseling,
24 rehabilitation counseling, psychology, or similar
25 program approved by the Department and has completed
26 the equivalent of 2 years full-time satisfactory

1 supervised employment or experience working as a
2 clinical counselor under the direction of a qualified
3 supervisor, at least one year of which is subsequent to
4 the degree;

5 (4) has passed the examination for the practice of
6 clinical professional counseling as authorized by the
7 Department; and

8 (5) has paid the fees required by this Act.

9 Any person who has received certification or licensure by
10 any State or national organization whose standards are accepted
11 by the Department as being substantially similar to the
12 standards in this Act may apply for a clinical professional
13 counselor license, and need not be examined further.

14 (c) Examination for applicants under this Act shall be held
15 at the discretion of the Department from time to time but not
16 less than once each year. The examination used shall be
17 authorized by the Department.

18 (d) Upon application and payment of the required fee, an
19 applicant who has an active license as a clinical psychologist
20 or a clinical social worker licensed under the laws of this
21 State may, without examination, be granted registration as a
22 licensed clinical professional counselor by the Department.

23 (Source: P.A. 96-1139, eff. 7-21-10.)

24 (225 ILCS 107/50)

25 (Section scheduled to be repealed on January 1, 2013)

1 Sec. 50. Licenses; renewal; restoration; person in
2 military service; inactive status.

3 (a) The expiration date and renewal period for each license
4 issued under this Act shall be set by rule. The licensee may
5 renew a license during the 30 day period preceding its
6 expiration date by paying the required fee and demonstrating
7 compliance with any continuing education requirements.

8 (b) Any person who has permitted a license to expire or who
9 has a license on inactive status may have it restored by
10 submitting an application to the Department and filing proof of
11 fitness, as defined by rule, to have the license restored,
12 including, if appropriate, evidence which is satisfactory to
13 the Department certifying the active practice of professional
14 counseling or clinical professional counseling in another
15 jurisdiction and by paying the required fee.

16 (c) If the person has not maintained an active practice in
17 another jurisdiction which is satisfactory to the Department,
18 the Department shall determine the person's fitness to resume
19 active status. The Department may also require the person to
20 complete a specific period of evaluated professional
21 counseling or clinical professional counseling work experience
22 and may require successful completion of an examination.

23 (d) Notwithstanding any other provision of this Act
24 ~~However~~, any person whose license expired while on active duty
25 with the armed forces of the United States, while called into
26 service or training with the State Militia or in training or

1 education under the supervision of the United States government
2 prior to induction into the military service may have his
3 license restored without paying any renewal fees if, within 2
4 years after the termination of such service, training, or
5 education, except under conditions other than honorable, the
6 Department is furnished with satisfactory evidence that the
7 person has been so engaged and that such service, training, or
8 education has been so terminated.

9 (e) A license to practice shall not be denied any applicant
10 because of the applicant's race, religion, creed, national
11 origin, political beliefs or activities, age, sex, sexual
12 orientation, or physical impairment.

13 (Source: P.A. 87-1011; 87-1269.)

14 (225 ILCS 107/60)

15 (Section scheduled to be repealed on January 1, 2013)

16 Sec. 60. Fees. The Department shall provide by rule for a
17 schedule of fees for the administration and enforcement of this
18 Act, including, but not limited to, original licensure,
19 renewal, and restoration. The fees shall be nonrefundable ~~The~~
20 ~~fees imposed under this Act shall be set by rule and are not~~
21 ~~refundable.~~

22 All ~~of the~~ fees collected under this Act shall be deposited
23 into the General Professions Dedicated Fund and shall be
24 appropriated to the Department for the ordinary and contingent
25 expenses of the Department in the administration of this Act.

1 (Source: P.A. 92-719, eff. 7-25-02.)

2 (225 ILCS 107/65)

3 (Section scheduled to be repealed on January 1, 2013)

4 Sec. 65. Checks or orders dishonored. Any person who issues
5 or delivers a check or other order to the Department that is
6 returned to the Department unpaid by the financial institution
7 upon which it is drawn shall pay to the Department, in addition
8 to the amount already owed to the Department, a fine of \$50.
9 The fines imposed by this Section are in addition to any other
10 discipline provided under this Act prohibiting unlicensed
11 practice or practice on a nonrenewed license. The Department
12 shall notify the person that payment of fees and fines shall be
13 paid to the Department by certified check or money order within
14 30 calendar days after notification. If, after the expiration
15 of 30 days from the date of the notification, the person has
16 failed to submit the necessary remittance, the Department shall
17 automatically terminate the license or certification or deny
18 the application, without hearing. If, after termination or
19 denial, the person seeks a license or certificate, he or she
20 shall apply to the Department for restoration or issuance of
21 the license or certificate and pay all fees and fines due to
22 the Department. The Department may establish a fee for the
23 processing of an application for restoration of a license to
24 pay all costs and expenses of processing of this application.
25 The Secretary ~~Director~~ may waive the fines due under this

1 Section in individual cases where the Secretary ~~Director~~ finds
2 that the fines would be unnecessarily burdensome.

3 (Source: P.A. 92-146, eff. 1-1-02.)

4 (225 ILCS 107/75)

5 (Section scheduled to be repealed on January 1, 2013)

6 Sec. 75. Privileged communications and exceptions.

7 (a) No licensed professional counselor or licensed
8 clinical professional counselor shall disclose any information
9 acquired from persons consulting the counselor in a
10 professional capacity, except that which may be voluntarily
11 disclosed under the following circumstances:

12 (1) In the course of formally reporting, conferring, or
13 consulting with administrative superiors, colleagues, or
14 consultants who share professional responsibility, in
15 which instance all recipients of the information are
16 similarly bound to regard the communication as privileged;

17 (2) With the written consent of the person who provided
18 the information;

19 (3) In the case of death or disability, with the
20 written consent of a personal representative, other person
21 authorized to sue, or the beneficiary of an insurance
22 policy on the person's life, health or physical condition;

23 (4) When a communication reveals the intended
24 commission of a crime or harmful act and such disclosure is
25 judged necessary by the licensed professional counselor or

1 licensed clinical professional counselor to protect any
2 person from a clear, imminent risk of serious mental or
3 physical harm or injury, or to forestall a serious threat
4 to the public safety; or

5 (5) When the person waives the privilege by bringing
6 any public charges against the licensee.

7 (b) When the person is a minor under the laws of the State
8 of Illinois and the information acquired by the licensed
9 professional counselor or licensed clinical professional
10 counselor indicates the minor was the victim or subject of a
11 crime, the licensed professional counselor or licensed
12 clinical professional counselor may be required to testify in
13 any judicial proceedings in which the commission of that crime
14 is the subject of inquiry when, after in camera review of the
15 information that the licensed professional counselor or
16 licensed clinical professional counselor acquired, the court
17 determines that the interests of the minor in having the
18 information held privileged are outweighed by the requirements
19 of justice, the need to protect the public safety or the need
20 to protect the minor, except as provided under the Abused and
21 Neglected Child Reporting Act.

22 (c) Any person having access to records or anyone who
23 participates in providing professional counseling or clinical
24 professional counseling services, or, in providing any human
25 services, is supervised by a licensed professional counselor or
26 licensed clinical professional counselor, is similarly bound

1 to regard all information and communications as privileged in
2 accord with this Section.

3 (d) Nothing in this Act shall be construed to prohibit a
4 licensed professional counselor or licensed clinical
5 professional counselor from voluntarily testifying in court
6 hearings concerning matters of adoption, child abuse, child
7 neglect or other matters pertaining to children, except as
8 provided under the Abused and Neglected Child Reporting Act and
9 the Elder Abuse and Neglect Act.

10 (e) The Mental Health and Developmental Disabilities
11 Confidentiality Act is incorporated herein as if all of its
12 provisions were included in this Act. In the event of a
13 conflict between the application of this Section and the Mental
14 Health and Developmental Disabilities Confidentiality Act to a
15 specific situation, the provisions of the Mental Health and
16 Developmental Disabilities Confidentiality Act shall control.

17 (f) Licensed professional counselors and licensed clinical
18 professional counselors when performing clinical professional
19 counseling services or professional counseling services shall
20 comply with all counselor licensure rules and laws regardless
21 of the employment or work setting.

22 (Source: P.A. 87-1011.)

23 (225 ILCS 107/80)

24 (Section scheduled to be repealed on January 1, 2013)

25 Sec. 80. Grounds for discipline; refusal, revocation, or

1 suspension of licensure.

2 (a) The Department may refuse to issue, renew, or may
3 revoke, suspend, place on probation, reprimand, or take other
4 disciplinary or non-disciplinary action as the Department
5 deems appropriate, including the issuance of fines not to
6 exceed \$10,000 ~~\$1000~~ for each violation, with regard to any
7 license for any one or more of the following:

8 (1) Material misstatement in furnishing information to
9 the Department or to any other State agency.

10 (2) Violations or negligent or intentional disregard
11 of this Act, or any of its rules.

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

18 (4) Making any misrepresentation for the purpose of
19 obtaining a license, or violating any provision of this Act
20 or its rules.

21 (5) Professional incompetence or gross negligence in
22 the rendering of professional counseling or clinical
23 professional counseling services.

24 (6) Malpractice.

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

1 (8) Failing to provide information within 30 ~~60~~ days in
2 response to a written request made by the Department.

3 (9) Engaging in dishonorable, unethical, or
4 unprofessional conduct of a character likely to deceive,
5 defraud, or harm the public and violating the rules of
6 professional conduct adopted by the Department.

7 (10) Habitual or excessive use or addiction to alcohol,
8 narcotics, stimulants, or any other chemical agent or drug
9 which results in inability to practice with reasonable
10 skill, judgment, or safety.

11 (11) Discipline by another jurisdiction, if at least
12 one of the grounds for the discipline is the same or
13 substantially equivalent to those set forth in this
14 Section.

15 (12) Directly or indirectly giving to or receiving from
16 any person, firm, corporation, partnership, or association
17 any fee, commission, rebate or other form of compensation
18 for any professional service not actually rendered.
19 Nothing in this paragraph (12) affects any bona fide
20 independent contractor or employment arrangements among
21 health care professionals, health facilities, health care
22 providers, or other entities, except as otherwise
23 prohibited by law. Any employment arrangements may include
24 provisions for compensation, health insurance, pension, or
25 other employment benefits for the provision of services
26 within the scope of the licensee's practice under this Act.

1 Nothing in this paragraph (12) shall be construed to
2 require an employment arrangement to receive professional
3 fees for services rendered.

4 (13) A finding by the Board that the licensee, after
5 having the license placed on probationary status, has
6 violated the terms of probation.

7 (14) Abandonment of a client.

8 (15) Willfully filing false reports relating to a
9 licensee's practice, including but not limited to false
10 records filed with federal or State agencies or
11 departments.

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

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

24 (18) Physical illness, or mental illness, or any other
25 impairment or disability, including, but not limited to,
26 deterioration through the aging process or loss of motor

1 ~~abilities and skills that which~~ results in the inability to
2 practice the profession with reasonable judgment, skill,
3 or safety.

4 (19) Solicitation of professional services by using
5 false or misleading advertising.

6 (20) Failure to file a return, or to pay the tax,
7 penalty or interest shown in a filed return, or to pay any
8 final assessment of tax, penalty or interest, as required
9 by any tax Act administered by the Illinois Department of
10 Revenue or any successor agency or the Internal Revenue
11 Service or any successor agency.

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

14 (22) Practicing or attempting to practice under a name
15 other than the full name as shown on the license or any
16 other legally authorized name.

17 (23) Gross overcharging for professional services
18 including filing statements for collection of fees or
19 monies for which services are not rendered.

20 (24) Rendering professional counseling or clinical
21 professional counseling services without a license or
22 practicing outside the scope of a license.

23 (25) Clinical supervisors failing to adequately and
24 responsibly monitor supervisees.

25 (b) The Department shall deny, without hearing, any
26 application or renewal for a license under this Act to any

1 person who has defaulted on an educational loan guaranteed by
2 the Illinois State Assistance Commission; however, the
3 Department may issue a license or renewal if the person in
4 default has established a satisfactory repayment record as
5 determined by the Illinois Student Assistance Commission.

6 (c) The determination by a court that a licensee is subject
7 to involuntary admission or judicial admission as provided in
8 the Mental Health and Developmental Disabilities Code will
9 result in an automatic suspension of his or her license. The
10 suspension will end upon a finding by a court that the licensee
11 is no longer subject to involuntary admission or judicial
12 admission, the issuance of an order so finding and discharging
13 the patient, and the recommendation of the Board to the
14 Secretary ~~Director~~ that the licensee be allowed to resume
15 professional practice.

16 (d) In enforcing this Section, the Board, upon a showing of
17 a possible violation, may compel a licensee or applicant to
18 submit to a mental or physical examination, or both, as
19 required by and at the expense of the Department. The examining
20 physicians or clinical psychologists shall be those
21 specifically designated by the Board. The Board or the
22 Department may order (i) the examining physician to present
23 testimony concerning the mental or physical examination of a
24 licensee or applicant or (ii) the examining clinical
25 psychologist to present testimony concerning the mental
26 examination of a licensee or applicant. No information shall be

1 excluded by reason of any common law or statutory privilege
2 relating to communications between a licensee or applicant and
3 the examining physician or clinical psychologist. An
4 individual to be examined may have, at his or her own expense,
5 another physician or clinical psychologist of his or her choice
6 present during all aspects of the examination. Failure of an
7 individual to submit to a mental or physical examination, when
8 directed, is grounds for suspension of his or her license. The
9 license must remain suspended until the person submits to the
10 examination or the Board finds, after notice and hearing, that
11 the refusal to submit to the examination was with reasonable
12 cause.

13 If the Board finds an individual unable to practice because
14 of the reasons set forth in this Section, the Board must
15 require the individual to submit to care, counseling, or
16 treatment by a physician or clinical psychologist approved by
17 the Board, as a condition, term, or restriction for continued,
18 reinstated, or renewed licensure to practice. In lieu of care,
19 counseling, or treatment, the Board may recommend that the
20 Department file a complaint to immediately suspend or revoke
21 the license of the individual or otherwise discipline the
22 licensee.

23 Any individual whose license was granted, continued,
24 reinstated, or renewed subject to conditions, terms, or
25 restrictions, as provided for in this Section, or any
26 individual who was disciplined or placed on supervision

1 pursuant to this Section must be referred to the Secretary
2 ~~Director~~ for a determination as to whether the person shall
3 have his or her license suspended immediately, pending a
4 hearing by the Board.

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

6 (225 ILCS 107/85)

7 (Section scheduled to be repealed on January 1, 2013)

8 Sec. 85. Violations; injunction; cease and desist order.

9 (a) If any person violates the provisions of this Act, the
10 Secretary ~~Director~~ may, in the name of the People of the State
11 of Illinois, through the Attorney General, petition for an
12 order enjoining the violation or for an order enforcing
13 compliance with this Act. Upon the filing of a verified
14 petition, the court with appropriate jurisdiction may issue a
15 temporary restraining order without notice or bond, and may
16 preliminarily and permanently enjoin the violation. If it is
17 established that the person has violated or is violating the
18 injunction, the court may punish the offender for contempt of
19 court. Proceedings under this Section are in addition to all
20 other remedies and penalties provided by this Act.

21 (b) If any person holds himself or herself out as being a
22 licensed professional counselor or licensed clinical
23 professional counselor under this Act and is not licensed to do
24 so, then any licensed professional counselor, licensed
25 clinical professional counselor, interested party, or any

1 person injured thereby may petition for relief as provided in
2 subsection (a) of this Section.

3 (c) Whenever, in the opinion of the Department, a person
4 violates any provision of this Act, the Department may issue a
5 rule to show cause why an order to cease and desist should not
6 be entered against that person. The rule shall clearly set
7 forth the grounds relied upon by the Department and shall allow
8 at least 7 days from the date of the rule to file an answer
9 satisfactory to the Department. Failure to answer to the
10 satisfaction of the Department shall cause an order to cease
11 and desist to be issued.

12 (Source: P.A. 87-1011.)

13 (225 ILCS 107/90)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 90. Investigations; notice and hearing. The
16 Department may investigate the actions of any applicant or any
17 person holding or claiming to hold a license. The Department
18 shall, before revoking, suspending, placing on probation,
19 reprimanding, or taking any other disciplinary action under
20 Section 80 of this Act, at least 30 days prior to the date set
21 for the hearing, (i) notify the accused, in writing, of any
22 charges made and the time and place for the hearing on the
23 charges, (ii) direct him or her to file a written answer to the
24 charges with the Board under oath within 20 days after the
25 service on him or her of the notice, and (iii) inform the

1 accused that, if he or she fails to answer, default will be
2 taken against him or her or that his or her license or
3 certificate may be suspended, revoked, placed on probationary
4 status, or other disciplinary action taken with regard to the
5 license or certificate, including limiting the scope, nature,
6 or extent of his or her practice, as the Department may deem
7 proper. In case the person, after receiving notice, fails to
8 file an answer, his or her license may, in the discretion of
9 the Department, be suspended, revoked, placed on probationary
10 status, or the Department may take whatever disciplinary action
11 deemed proper, including limiting the scope, nature, or extent
12 of the person's practice or the imposition of a fine, without a
13 hearing, if the act or acts charged constitute sufficient
14 grounds for such action under this Act. The written notice may
15 be served by personal delivery or certified mail to the
16 applicant's last address of record ~~specified by the accused in~~
17 ~~his or her last notification to the Department.~~ The Department,
18 at its expense, shall preserve a record of all proceedings at
19 the formal hearing of any case involving the refusal to issue
20 or renew a license or discipline of a licensee. The notice of
21 hearing, complaint, and all other documents in the nature of
22 pleadings and written motions filed in the proceedings, the
23 transcript of testimony, the report of the Board, and the
24 orders of the Department shall be the record of such
25 proceedings.

26 (Source: P.A. 87-1011; 87-1269.)

1 (225 ILCS 107/92 new)

2 Sec. 92. Disciplinary actions.

3 (a) In case the licensee, after receiving notice, fails to
4 file an answer, his or her license may, in the discretion of
5 the Secretary, having first received the recommendation of the
6 Board, be suspended, revoked, placed on probationary status, or
7 the Secretary may take whatever disciplinary action he or she
8 may deem proper, including the imposition of a fine, without a
9 hearing, if the act or acts charged constitute sufficient
10 grounds for such action under this Act.

11 (b) The Secretary may temporarily suspend the license of a
12 licensee without a hearing, simultaneous to the institution of
13 proceedings for a hearing under this Act, if the Secretary
14 finds that evidence in his or her possession indicates that the
15 person's continuation of use of the title would constitute an
16 immediate danger to the public. In the event that the Secretary
17 temporarily suspends the license of a licensee without a
18 hearing, a hearing by the Board must be held within 15 days
19 after such suspension has occurred and concluded without
20 appreciable delay.

21 (225 ILCS 107/93 new)

22 Sec. 93. Hearings. At the time and place fixed in the
23 notice under Section 90, the Board shall proceed to hear the
24 charges and both the licensee and the complainant shall be

1 accorded ample opportunity to present in person, or by counsel,
2 such statements, testimony, evidence, and arguments as may be
3 pertinent to the charges or to their defense. The Board may
4 continue the hearing from time to time. If the Board is not
5 sitting at the time and place fixed in the notice or at the
6 time and place to which the hearing has been continued, the
7 Department shall continue the hearing for a period not to
8 exceed 30 days.

9 The Board and Department have power to subpoena and bring
10 before the Board any person in this State and to take testimony
11 either orally or by deposition, or both, with the same fees and
12 mileage and in the same manner as prescribed for civil actions
13 in this State.

14 The Secretary and any member of the Board have power to
15 administer oaths at any hearing which the Department or Board
16 is authorized by law to conduct.

17 (225 ILCS 107/100)

18 (Section scheduled to be repealed on January 1, 2013)

19 Sec. 100. Subpoenas; depositions; oaths. The Department
20 has the power to subpoena and to bring before it any person and
21 to take testimony either orally or by deposition, or both, with
22 the same fees and mileage and in the same manner as prescribed
23 in civil cases in the courts of this State.

24 The Secretary ~~Director~~, the designated hearing officer,
25 and every member of the Board has the power to administer oaths

1 to witnesses at any hearing which the Department is authorized
2 to conduct, and any other oaths authorized in any Act
3 administered by the Department.

4 (Source: P.A. 87-1011.)

5 (225 ILCS 107/110)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 110. Findings and recommendations. At the conclusion
8 of the hearing, the Board shall present to the Secretary
9 ~~Director~~ a written report of its findings of fact, conclusions
10 of law, and recommendations. The report shall contain a finding
11 whether the licensee violated this Act or failed to comply with
12 the conditions required in this Act. The Board shall specify
13 the nature of the violation or failure to comply, and shall
14 make its recommendations to the Secretary ~~Director~~.

15 The report of findings of fact, conclusions of law, and
16 recommendation of the Board shall be the basis for the
17 Department's order for refusal or for the granting of the
18 license. If the Secretary ~~Director~~ disagrees with the
19 recommendations of the Board, the Secretary ~~Director~~ may issue
20 an order in contravention of the Board recommendations. The
21 Secretary ~~Director~~ shall provide a written report to the Board
22 on any disagreement and shall specify the reasons for the
23 action in the final order. The finding is not admissible in
24 evidence against the person in a criminal prosecution brought
25 for the violation of this Act, but the hearing and findings are

1 not a bar to a criminal prosecution brought for the violation
2 of this Act.

3 (Source: P.A. 87-1011.)

4 (225 ILCS 107/115)

5 (Section scheduled to be repealed on January 1, 2013)

6 Sec. 115. Board; rehearing. At the conclusion of the
7 hearing, a copy of the Board's report shall be served upon the
8 applicant or licensee by the Department, either personally or
9 as provided in this Act for the service of the notice of
10 hearing. Within 20 days after such service, the applicant or
11 licensee may present to the Department a motion in writing for
12 a rehearing which shall specify the particular grounds for
13 rehearing. If no motion for a rehearing is filed, then upon the
14 expiration of the time specified for filing such a motion, or
15 if a motion for rehearing is denied, then upon such denial, the
16 Secretary ~~Director~~ may enter an order in accordance with
17 recommendations of the Board, except as provided in Section 120
18 of this Act. If the applicant or licensee requests and pays for
19 a transcript of the record within the time for filing a motion
20 for rehearing, the 20-day period within which a motion may be
21 filed shall commence upon the delivery of the transcript to the
22 applicant or licensee.

23 (Source: P.A. 87-1011; 87-1269.)

24 (225 ILCS 107/120)

1 (Section scheduled to be repealed on January 1, 2013)

2 Sec. 120. Secretary ~~Director~~; rehearing. Whenever the
3 Secretary ~~Director~~ believes justice has not been done in the
4 revocation, suspension or refusal to issue or renew a license
5 or the discipline of a licensee, he or she may order a
6 rehearing.

7 (Source: P.A. 87-1011.)

8 (225 ILCS 107/123 new)

9 Sec. 123. Recommendations for disciplinary action; action
10 by Secretary. The Board may advise the Secretary that probation
11 be granted or that other disciplinary action, including the
12 limitation of the use of the title, be taken, as it deems
13 proper. If disciplinary action other than suspension or
14 revocation is taken, the Board may advise the Secretary to
15 impose reasonable limitations and requirements upon the
16 licensee to insure compliance with the terms of the probation
17 or other disciplinary action, including, but not limited to,
18 regular reporting by the licensee to the Secretary of his or
19 her actions, or the registrant placing himself or herself under
20 the care of a qualified physician for treatment, or limiting
21 his or her use of the title in a manner as the Secretary may
22 require.

23 The Board shall present to the Secretary a written report
24 of its findings and recommendations. A copy of the report shall
25 be served upon the licensee, either personally or by registered

1 or certified mail. Within 20 days after such service, the
2 licensee may present to the Department his or her motion in
3 writing for a rehearing, specifying the particular grounds for
4 rehearing. If the licensee orders and pays for a transcript of
5 the record, the time elapsing until the transcript is ready for
6 delivery to him or her shall not be counted as part of such 20
7 days.

8 At the expiration of the time allowed for filing a motion
9 for rehearing, the Secretary may take the action recommended by
10 the Board. Upon suspension, revocation, placement on
11 probationary status, or the taking of any other disciplinary
12 action, including the limiting of the use of the title, deemed
13 proper by the Secretary with regard to the license, the
14 licensee shall surrender his or her license to the Department
15 if ordered to do so by the Department. Upon his or her failure
16 or refusal to do so, the Department may seize the license.

17 In all instances in which the Board has rendered a
18 recommendation to the Secretary with respect to a particular
19 person, the Secretary shall, to the extent that he or she
20 disagrees with or takes action contrary to the recommendation
21 of the Board, file with the Board his or her specific written
22 reasons of disagreement. Such reasons shall be filed within 30
23 days after the Secretary has taken the contrary position.

24 Each order of revocation, suspension, or other
25 disciplinary action shall contain a brief and concise statement
26 of the ground or grounds upon which the Department's action is

1 based, as well as the specific terms and conditions of such
2 action.

3 Whenever the Secretary is satisfied that substantial
4 justice has not been done either in an examination or in the
5 revocation, suspension, or refusal to issue a certificate of
6 registration, or other disciplinary action, the Secretary may
7 order a re-examination or rehearing.

8 (225 ILCS 107/125)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 125. Appointment of a hearing officer. The Secretary
11 ~~Director~~ has the authority to appoint any attorney duly
12 licensed to practice law in the State of Illinois to serve as
13 the hearing officer in any action for refusal to issue or renew
14 a license or permit or to discipline a licensee. The hearing
15 officer has full authority to conduct the hearing. ~~At least one~~
16 ~~member of the Board shall attend each hearing.~~ The hearing
17 officer shall report his findings of fact, conclusions of law,
18 and recommendations to the Board and to the Secretary ~~Director~~.
19 The Board shall have 60 calendar days from receipt of the
20 report to review it and to present its findings of fact,
21 conclusions of law and recommendation to the Secretary
22 ~~Director~~. If the Board does not present its report within the
23 60 day period, the respondent may request in writing a direct
24 appeal to the Secretary, in which case the Secretary shall,
25 within 7 calendar days after the request, issue an order

1 directing the Board to issue its findings of fact, conclusions
2 of law, and recommendations to the Secretary within 30 calendar
3 days after such order. If the Board fails to issue its findings
4 of fact, conclusions of law, and recommendations within that
5 time frame to the Secretary after the entry of such order, the
6 Secretary shall, within 30 calendar days thereafter, issue an
7 order based upon the report of the hearing office and the
8 record of the proceedings or issue an order remanding the
9 matter back to the hearing office for additional proceedings in
10 accordance with the order. If (i) a direct appeal is requested,
11 (ii) the Board fails to issue its findings of fact, conclusions
12 of law, and recommendations with the 30-day mandate from the
13 Secretary or the Secretary fails to order the Board to do so,
14 and (iii) the Secretary fails to issue an order within 30
15 calendar days thereafter, then the hearing officer's report is
16 deemed accepted and a final decision of the Secretary.
17 Notwithstanding any other provision of this Section, if the
18 Secretary upon review, determines that substantial justice has
19 not been done in the revocation, suspension, or refusal to
20 issue or renew a license or other disciplinary action taken as
21 the result of the entry of the hearing officer's report, the
22 Secretary may order a rehearing by the same or other examiners
23 ~~the Director may issue an order based on the report of the~~
24 ~~hearing officer.~~ If the Secretary ~~Director~~ disagrees with the
25 recommendation of the Board or of the hearing officer, the
26 Secretary ~~Director~~ may issue an order in contravention of the

1 recommendation. The Secretary ~~Director~~ shall promptly provide
2 a written explanation to the Board on any such disagreement.

3 (Source: P.A. 87-1011; 87-1269.)

4 (225 ILCS 107/130)

5 (Section scheduled to be repealed on January 1, 2013)

6 Sec. 130. Order or certified copy; prima facie proof. An
7 order or certified copy thereof, over the seal of the
8 Department and purporting to be signed by the Secretary
9 ~~Director~~, is prima facie proof that:

10 (a) The signature is the genuine signature of the Secretary
11 ~~Director~~;

12 (b) The Secretary ~~Director~~ is duly appointed and qualified;
13 and

14 (c) The Board and the members thereof are qualified to act.

15 (Source: P.A. 87-1011.)

16 (225 ILCS 107/135)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 135. Restoration of suspended or revoked license. At
19 any time after the suspension or revocation of any license,
20 placement on probationary status, or the taking of any other
21 disciplinary action with regard to any licensure, the
22 Department may restore it to the licensee upon the written
23 recommendation of the Board, unless after an investigation and
24 hearing the Board determines that restoration is not in the

1 public interest.

2 (Source: P.A. 87-1011.)

3 (225 ILCS 107/145)

4 (Section scheduled to be repealed on January 1, 2013)

5 Sec. 145. Summary suspension of license. The Secretary
6 ~~Director~~ may summarily suspend the license of a professional
7 counselor or a clinical professional counselor without a
8 hearing, simultaneously with the institution of proceedings
9 for a hearing provided for in Section 90 of this Act, if the
10 Secretary ~~Director~~ finds that evidence in the possession of the
11 Secretary ~~Director~~ indicates that the continuation of practice
12 by the professional counselor or clinical professional
13 counselor would constitute an imminent danger to the public. In
14 the event that the Secretary ~~Director~~ summarily suspends the
15 license of an individual without a hearing, a hearing must be
16 held within 30 days after the suspension has occurred.

17 (Source: P.A. 87-1011.)

18 (225 ILCS 107/147 new)

19 Sec. 147. Revocation orders. An order of revocation,
20 suspension, placement on probationary status, or other formal
21 disciplinary action as the Department may deem proper, or a
22 certified copy thereof, over the seal of the Department and
23 purporting to be signed by the Secretary of the Department is
24 prima facie proof that:

1 (a) such signature is the genuine signature of the
2 Secretary;

3 (b) the Secretary is duly appointed and qualified; and

4 (c) the Board and the members thereof are qualified.

5 (225 ILCS 107/150)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 150. Administrative review; venue.

8 (a) All final administrative decisions of the Department
9 are subject to judicial review pursuant to the Administrative
10 Review Law and its rules. The term "administrative decision" is
11 defined as in Section 3-101 of the Code of Civil Procedure.

12 (b) Proceedings for judicial review shall be commenced in
13 the circuit court of the county in which the party applying for
14 review resides, but if the party is not a resident of Illinois,
15 the venue shall be in Sangamon County.

16 The Department shall not be required to certify any record
17 to the court or file any answer in court or otherwise appear in
18 any court in a judicial review proceeding, unless there is
19 filed in the court with the complaint a receipt from the
20 Department acknowledging payment of the costs of furnishing and
21 certifying the record. Exhibits shall be certified without
22 cost. Failure on the part of the plaintiff to file a receipt in
23 court shall be grounds for dismissal of the action. During the
24 pendency and hearing of any and all judicial proceedings
25 incident to a disciplinary action, any sanctions imposed upon

1 the licensee by the Department shall remain in full force and
2 effect.

3 (Source: P.A. 87-1011.)

4 (225 ILCS 107/163 new)

5 Sec. 163. Confidential information; disclosure. In
6 hearings conducted under this Act, information presented into
7 evidence that was acquired by a counselor in serving any
8 individual in a professional capacity, and necessary to
9 professionally serve such individual, shall be deemed strictly
10 confidential and shall only be made available either as part of
11 the record of a hearing hereunder or otherwise:

12 (a) when the record is required, in its entirety, for
13 purposes of judicial review;

14 (b) upon the express written consent of the individual
15 served, or in the case of his or her death or disability,
16 the consent of his or her personal representative.

17 (225 ILCS 107/164 new)

18 Sec. 164. Injunctions. The use of the title clinical
19 professional counselor, as defined in Section 10, by any person
20 not holding a valid and current license under this Act is
21 declared to be inimical to the public welfare, to constitute a
22 public nuisance, and to cause irreparable harm to the public
23 welfare. The Secretary, the Attorney General, the State's
24 Attorney of any county in the State, or any person may maintain

1 an action in the name of the People of the State of Illinois,
2 and may apply for an injunction in the circuit court to enjoin
3 any such person from engaging in the unlawful use of the title
4 clinical professional counselor. Upon the filing of a verified
5 petition, the court or any judge, if satisfied by affidavit or
6 otherwise that such person has been engaged in such use without
7 a valid and current license, may issue a temporary injunction
8 without notice or bond, enjoining the defendant from any such
9 further use. Only the showing of the person's lack of
10 licensure, by affidavit or otherwise, is necessary in order for
11 a temporary injunction to issue. A copy of the verified
12 complaint shall be served upon the defendant and the
13 proceedings shall be conducted as in other civil cases except
14 as modified by this Section. If it is established that the
15 defendant has been or is engaged in any such unlawful use, the
16 court or any judge may enter an order or judgment perpetually
17 enjoining the defendant from further such use. In all
18 proceedings under this Section, the court, in its discretion,
19 may apportion the costs among the parties interested in the
20 suit, including cost of filing the complaint, service of
21 process, witness fees and expenses, court reporter charges, and
22 reasonable attorney's fees. In case of violation of any
23 injunction issued under this Section, the court or any judge
24 may summarily try and punish the offender for contempt of
25 court. Such injunction proceedings are in addition to, and not
26 in lieu of, all penalties and other remedies provided in this

1 Act.

2 (225 ILCS 107/165)

3 (Section scheduled to be repealed on January 1, 2013)

4 Sec. 165. Administrative Procedure Act; application. The
5 Illinois Administrative Procedure Act is hereby expressly
6 adopted and incorporated in this Act as if all of the
7 provisions of such Act were included in this Act, except that
8 the provision of subsection (d) of Section 10-65 of the
9 Illinois Administrative Procedure Act that provides that at
10 hearings the licensee has the right to show compliance with all
11 lawful requirements for retention, continuation, or renewal of
12 the license is specifically excluded. For the purposes of this
13 Act, the notice required under Section 10-25 of the Illinois
14 Administrative Procedure Act is deemed sufficient when mailed
15 to the last known address of a party.

16 (Source: P.A. 87-1011.)

17 Section 10. The Elder Abuse and Neglect Act is amended by
18 changing Section 2 as follows:

19 (320 ILCS 20/2) (from Ch. 23, par. 6602)

20 Sec. 2. Definitions. As used in this Act, unless the
21 context requires otherwise:

22 (a) "Abuse" means causing any physical, mental or sexual
23 injury to an eligible adult, including exploitation of such

1 adult's financial resources.

2 Nothing in this Act shall be construed to mean that an
3 eligible adult is a victim of abuse, neglect, or self-neglect
4 for the sole reason that he or she is being furnished with or
5 relies upon treatment by spiritual means through prayer alone,
6 in accordance with the tenets and practices of a recognized
7 church or religious denomination.

8 Nothing in this Act shall be construed to mean that an
9 eligible adult is a victim of abuse because of health care
10 services provided or not provided by licensed health care
11 professionals.

12 (a-5) "Abuser" means a person who abuses, neglects, or
13 financially exploits an eligible adult.

14 (a-7) "Caregiver" means a person who either as a result of
15 a family relationship, voluntarily, or in exchange for
16 compensation has assumed responsibility for all or a portion of
17 the care of an eligible adult who needs assistance with
18 activities of daily living.

19 (b) "Department" means the Department on Aging of the State
20 of Illinois.

21 (c) "Director" means the Director of the Department.

22 (d) "Domestic living situation" means a residence where the
23 eligible adult at the time of the report lives alone or with
24 his or her family or a caregiver, or others, or a board and
25 care home or other community-based unlicensed facility, but is
26 not:

1 (1) A licensed facility as defined in Section 1-113 of
2 the Nursing Home Care Act;

3 (1.5) A facility licensed under the ID/DD Community
4 Care Act;

5 (1.7) A facility licensed under the Specialized Mental
6 Health Rehabilitation Act;

7 (2) A "life care facility" as defined in the Life Care
8 Facilities Act;

9 (3) A home, institution, or other place operated by the
10 federal government or agency thereof or by the State of
11 Illinois;

12 (4) A hospital, sanitarium, or other institution, the
13 principal activity or business of which is the diagnosis,
14 care, and treatment of human illness through the
15 maintenance and operation of organized facilities
16 therefor, which is required to be licensed under the
17 Hospital Licensing Act;

18 (5) A "community living facility" as defined in the
19 Community Living Facilities Licensing Act;

20 (6) (Blank);

21 (7) A "community-integrated living arrangement" as
22 defined in the Community-Integrated Living Arrangements
23 Licensure and Certification Act;

24 (8) An assisted living or shared housing establishment
25 as defined in the Assisted Living and Shared Housing Act;
26 or

1 (9) A supportive living facility as described in
2 Section 5-5.01a of the Illinois Public Aid Code.

3 (e) "Eligible adult" means a person 60 years of age or
4 older who resides in a domestic living situation and is, or is
5 alleged to be, abused, neglected, or financially exploited by
6 another individual or who neglects himself or herself.

7 (f) "Emergency" means a situation in which an eligible
8 adult is living in conditions presenting a risk of death or
9 physical, mental or sexual injury and the provider agency has
10 reason to believe the eligible adult is unable to consent to
11 services which would alleviate that risk.

12 (f-5) "Mandated reporter" means any of the following
13 persons while engaged in carrying out their professional
14 duties:

15 (1) a professional or professional's delegate while
16 engaged in: (i) social services, (ii) law enforcement,
17 (iii) education, (iv) the care of an eligible adult or
18 eligible adults, or (v) any of the occupations required to
19 be licensed under the Clinical Psychologist Licensing Act,
20 the Clinical Social Work and Social Work Practice Act, the
21 Illinois Dental Practice Act, the Dietetic and Nutrition
22 Services Practice Act, the Marriage and Family Therapy
23 Licensing Act, the Medical Practice Act of 1987, the
24 Naprathic Practice Act, the Nurse Practice Act, the
25 Nursing Home Administrators Licensing and Disciplinary
26 Act, the Illinois Occupational Therapy Practice Act, the

1 Illinois Optometric Practice Act of 1987, the Pharmacy
2 Practice Act, the Illinois Physical Therapy Act, the
3 Physician Assistant Practice Act of 1987, the Podiatric
4 Medical Practice Act of 1987, the Respiratory Care Practice
5 Act, the Professional Counselor and Clinical Professional
6 Counselor Licensing and Practice Act, the Illinois
7 Speech-Language Pathology and Audiology Practice Act, the
8 Veterinary Medicine and Surgery Practice Act of 2004, and
9 the Illinois Public Accounting Act;

10 (2) an employee of a vocational rehabilitation
11 facility prescribed or supervised by the Department of
12 Human Services;

13 (3) an administrator, employee, or person providing
14 services in or through an unlicensed community based
15 facility;

16 (4) any religious practitioner who provides treatment
17 by prayer or spiritual means alone in accordance with the
18 tenets and practices of a recognized church or religious
19 denomination, except as to information received in any
20 confession or sacred communication enjoined by the
21 discipline of the religious denomination to be held
22 confidential;

23 (5) field personnel of the Department of Healthcare and
24 Family Services, Department of Public Health, and
25 Department of Human Services, and any county or municipal
26 health department;

1 (6) personnel of the Department of Human Services, the
2 Guardianship and Advocacy Commission, the State Fire
3 Marshal, local fire departments, the Department on Aging
4 and its subsidiary Area Agencies on Aging and provider
5 agencies, and the Office of State Long Term Care Ombudsman;

6 (7) any employee of the State of Illinois not otherwise
7 specified herein who is involved in providing services to
8 eligible adults, including professionals providing medical
9 or rehabilitation services and all other persons having
10 direct contact with eligible adults;

11 (8) a person who performs the duties of a coroner or
12 medical examiner; or

13 (9) a person who performs the duties of a paramedic or
14 an emergency medical technician.

15 (g) "Neglect" means another individual's failure to
16 provide an eligible adult with or willful withholding from an
17 eligible adult the necessities of life including, but not
18 limited to, food, clothing, shelter or health care. This
19 subsection does not create any new affirmative duty to provide
20 support to eligible adults. Nothing in this Act shall be
21 construed to mean that an eligible adult is a victim of neglect
22 because of health care services provided or not provided by
23 licensed health care professionals.

24 (h) "Provider agency" means any public or nonprofit agency
25 in a planning and service area appointed by the regional
26 administrative agency with prior approval by the Department on

1 Aging to receive and assess reports of alleged or suspected
2 abuse, neglect, or financial exploitation.

3 (i) "Regional administrative agency" means any public or
4 nonprofit agency in a planning and service area so designated
5 by the Department, provided that the designated Area Agency on
6 Aging shall be designated the regional administrative agency if
7 it so requests. The Department shall assume the functions of
8 the regional administrative agency for any planning and service
9 area where another agency is not so designated.

10 (i-5) "Self-neglect" means a condition that is the result
11 of an eligible adult's inability, due to physical or mental
12 impairments, or both, or a diminished capacity, to perform
13 essential self-care tasks that substantially threaten his or
14 her own health, including: providing essential food, clothing,
15 shelter, and health care; and obtaining goods and services
16 necessary to maintain physical health, mental health,
17 emotional well-being, and general safety. The term includes
18 compulsive hoarding, which is characterized by the acquisition
19 and retention of large quantities of items and materials that
20 produce an extensively cluttered living space, which
21 significantly impairs the performance of essential self-care
22 tasks or otherwise substantially threatens life or safety.

23 (j) "Substantiated case" means a reported case of alleged
24 or suspected abuse, neglect, financial exploitation, or
25 self-neglect in which a provider agency, after assessment,
26 determines that there is reason to believe abuse, neglect, or

1 financial exploitation has occurred.

2 (Source: P.A. 96-339, eff. 7-1-10; 96-526, eff. 1-1-10; 96-572,
3 eff. 1-1-10; 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227,
4 eff. 1-1-12; 97-300, eff. 8-11-11; revised 10-4-11.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.

1 INDEX
2 Statutes amended in order of appearance

- 3 5 ILCS 80/4.23
- 4 5 ILCS 80/4.33 new
- 5 225 ILCS 107/1
- 6 225 ILCS 107/5
- 7 225 ILCS 107/10
- 8 225 ILCS 107/15
- 9 225 ILCS 107/18 new
- 10 225 ILCS 107/20
- 11 225 ILCS 107/21
- 12 225 ILCS 107/25
- 13 225 ILCS 107/30 from Ch. 111, par. 8451-30
- 14 225 ILCS 107/43 new
- 15 225 ILCS 107/45
- 16 225 ILCS 107/50
- 17 225 ILCS 107/60
- 18 225 ILCS 107/65
- 19 225 ILCS 107/75
- 20 225 ILCS 107/80
- 21 225 ILCS 107/85
- 22 225 ILCS 107/90
- 23 225 ILCS 107/92 new
- 24 225 ILCS 107/93 new
- 25 225 ILCS 107/100

- 1 225 ILCS 107/110
- 2 225 ILCS 107/115
- 3 225 ILCS 107/120
- 4 225 ILCS 107/123 new
- 5 225 ILCS 107/125
- 6 225 ILCS 107/130
- 7 225 ILCS 107/135
- 8 225 ILCS 107/145
- 9 225 ILCS 107/147 new
- 10 225 ILCS 107/150
- 11 225 ILCS 107/163 new
- 12 225 ILCS 107/164 new
- 13 225 ILCS 107/165
- 14 320 ILCS 20/2

from Ch. 23, par. 6602