



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5011

by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 80/4.37 new

Creates the Phlebotomy Certification Act. Provides for the certification of phlebotomists by the Department of Financial and Professional Regulation. Sets forth powers and duties of the Department, grounds for discipline, civil and criminal penalties for violation of the Act, and administrative procedure. Amends the Regulatory Sunset Act to set a repeal date of January 1, 2027 for the new Act.

LRB099 19336 SMS 43728 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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. Short title. This Act may be cited as the
5 Phlebotomy Certification Act.

6 Section 5. Legislative purpose. The purpose of this Act is
7 to protect and benefit the public by setting standards of
8 qualifications, education, training, and experience for those
9 who seek to hold the title of certified phlebotomist.

10 Section 10. Definitions. As used in this Act:

11 "Address of record" means the designated address recorded
12 by the Department in the applicant's or certificate holder's
13 application file or certificate file as maintained by the
14 Department's licensure maintenance unit. It is the duty of the
15 applicant or certificate holder to inform the Department of any
16 change of address, and those changes must be made either
17 through the Department's website or by contacting the
18 Department.

19 "Department" means the Department of Financial and
20 Professional Regulation.

21 "Phlebotomist" means an individual performing an invasive
22 procedure to withdraw blood from the human body to collect

1 samples for the practice of clinical laboratory science,
2 including, but not limited to, clinical laboratory testing for
3 analysis, typing, and cross-matching of blood for medical
4 examination and human transfusion.

5 "Secretary" means the Secretary of Financial and
6 Professional Regulation.

7 Section 15. Powers and duties of the Department.

8 (a) The Department shall exercise the powers and duties
9 prescribed by the Civil Administrative Code of Illinois and
10 shall exercise any other powers and duties necessary for
11 effectuating the purposes of this Act.

12 (b) The Department may adopt rules consistent with the
13 provisions of this Act for its administration and enforcement
14 and may prescribe forms that shall be issued in connection with
15 this Act. The rules may include, but are not limited to,
16 criteria for certificate, professional conduct, and
17 discipline.

18 Section 20. Illinois Administrative Procedure Act. The
19 Illinois Administrative Procedure Act is expressly adopted and
20 incorporated in this Act as if all of the provisions of the
21 Illinois Administrative Procedure Act were included in this
22 Act, except that the provision of subsection (d) of Section
23 10-65 of the Illinois Administrative Procedure Act that
24 provides that at hearings the certificate holder has the right

1 to show compliance with all lawful requirements for retention,
2 continuation, or renewal of the certificate is specifically
3 excluded. For purposes of this Act, the notice required under
4 Section 10-25 of the Illinois Administrative Procedure Act is
5 deemed sufficient when mailed to the certificate holder's
6 address of record.

7 Section 25. Application for certification. An application
8 for an initial certificate shall be made to the Department in
9 writing on forms prescribed by the Department and shall be
10 accompanied by the required nonrefundable fee. An application
11 shall require information that, in the judgment of the
12 Department, will enable the Department to evaluate the
13 qualifications of an applicant for certification.

14 If an applicant fails to obtain a certificate under this
15 Act within 3 years after filing his or her application, the
16 application shall be denied. The applicant may make a new
17 application, which shall be accompanied by the required
18 nonrefundable fee.

19 Section 30. Social Security Number on certificate
20 application. In addition to any other information required to
21 be contained in the application, every application for an
22 original certificate under this Act shall include the
23 applicant's Social Security Number, which shall be retained in
24 the agency's records pertaining to the certificate. As soon as

1 practical, the Department shall assign a customer's
2 identification number to each applicant for a certificate.

3 Every application for a renewed, reinstated, or restored
4 certificate shall require the applicant's customer
5 identification number.

6 Section 35. Title protection. No person shall hold himself
7 or herself out as a certified phlebotomist without being so
8 certified by the Department.

9 Section 40. Application of Act. This Act shall not be
10 construed to prohibit the following:

11 (1) A person licensed in this State under any other Act
12 from engaging in the practice for which he or she is
13 licensed, including, but not limited to, a physician
14 licensed to practice medicine in all its branches,
15 physician assistant, advanced practice nurse, or nurse
16 performing surgery-related tasks within the scope of his or
17 her license, nor are these individuals required to be
18 certified under this Act.

19 (2) A person from engaging in practice as a
20 phlebotomist in the discharge of his or her official duties
21 as an employee of the United States government.

22 (3) One or more certified phlebotomists from forming a
23 professional service corporation in accordance with the
24 Professional Service Corporation Act and applying for

1 licensure as a corporation providing phlebotomy services.

2 Section 45. Certification requirements. The Department
3 shall establish qualifications for certification as a
4 phlebotomist.

5 Section 50. Expiration; restoration; renewal. The
6 expiration date and renewal period for each certificate issued
7 under this Act shall be set by the Department by rule. Renewal
8 shall be conditioned on paying the required fee and meeting
9 other requirements as may be established by rule.

10 A certificate holder who has permitted his or her
11 certificate to expire or who has had his or her certificate on
12 inactive status may have the certificate restored by making
13 application to the Department, by filing proof acceptable to
14 the Department of his or her fitness to have the certificate
15 restored, and by paying the required fees. Proof of fitness may
16 include sworn evidence certifying to active lawful practice in
17 another jurisdiction.

18 If the certificate holder has not maintained an active
19 practice in another jurisdiction satisfactory to the
20 Department, the Department shall determine, by an evaluation
21 program established by rule, his or her fitness for restoration
22 of the certificate and shall establish procedures and
23 requirements for restoration. However, a certificate holder
24 whose certificate expired while he or she was (1) in federal

1 service on active duty with the Armed Forces of the United
2 States or the State Militia called into service or training or
3 (2) in training or education under the supervision of the
4 United States before induction into the military service, may
5 have the certificate restored without paying any lapsed renewal
6 fees if, within 2 years after honorable termination of the
7 service, training, or education, he or she furnishes the
8 Department with satisfactory evidence to the effect that he or
9 she has been so engaged and that his or her service, training,
10 or education has been so terminated.

11 Section 55. Inactive status. A certificate holder who
12 notifies the Department in writing on forms prescribed by the
13 Department may elect to place his or her certificate on
14 inactive status and shall, subject to rules of the Department,
15 be excused from payment of renewal fees until he or she
16 notifies the Department in writing of his or her intention to
17 restore the certificate. A certificate holder requesting
18 restoration from inactive status shall pay the current renewal
19 fee and shall restore his or her certificate in accordance with
20 Section 50 of this Act. A certificate holder whose certificate
21 is on inactive or non-renewed status shall not hold himself or
22 herself out as a certified phlebotomist. To do so shall be
23 grounds for discipline under Section 65 of this Act.

24 Section 60. Fees; returned checks.

1 (a) The Department shall set by rule fees for the
2 administration of this Act, including, but not limited to, fees
3 for initial and renewal certificates and restoration of a
4 certificate.

5 (b) A person who delivers a check or other payment to the
6 Department that is returned to the Department unpaid by the
7 financial institution upon which it is drawn shall pay to the
8 Department, in addition to the amount already owed to the
9 Department, a fine of \$50. The fines imposed by this Section
10 are in addition to any other discipline provided under this
11 Act. The Department shall notify the person that fees and fines
12 shall be paid to the Department by certified check or money
13 order within 30 calendar days of the notification. If, after
14 the expiration of 30 days from the date of the notification,
15 the person has failed to submit the necessary remittance, the
16 Department shall automatically terminate the certificate or
17 deny the application without a hearing. If the person seeks a
18 certificate after termination or denial, he or she shall apply
19 to the Department for restoration or issuance of the
20 certificate and pay all fees and fines due to the Department.
21 The Department may establish a fee for the processing of an
22 application for restoration of a certificate to defray the
23 expenses of processing the application. The Secretary may waive
24 the fines due under this Section in individual cases if the
25 Secretary finds that the fines would be unreasonable or
26 unnecessarily burdensome.

1 (c) All of the fees and fines collected under this Act
2 shall be deposited into the General Professions Dedicated Fund.
3 The moneys deposited into the Fund shall be appropriated to the
4 Department for expenses of the Department in the administration
5 of this Act.

6 Section 65. Grounds for disciplinary action.

7 (a) The Department may refuse to issue, renew, or restore a
8 certificate, may revoke or suspend a certificate, or may place
9 on probation, reprimand, or take other disciplinary or
10 non-disciplinary action with regard to a person certified under
11 this Act, including, but not limited to, the imposition of
12 fines not to exceed \$10,000 for each violation and the
13 assessment of costs as provided for in Section 90, for any one
14 or combination of the following:

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

17 (2) Violating a provision of this Act or rules adopted
18 under this Act.

19 (3) Conviction by plea of guilty or nolo contendere,
20 finding of guilt, jury verdict, or entry of judgment or by
21 sentencing of any crime, including, but not limited to,
22 convictions, preceding sentences of supervision,
23 conditional discharge, or first offender probation, under
24 the laws of any jurisdiction of the United States that is
25 (i) a felony or (ii) a misdemeanor, an essential element of

1 which is dishonesty, or that is directly related to the
2 practice of the profession.

3 (4) Fraud or misrepresentation in applying for,
4 renewing, restoring, reinstating, or procuring a
5 certificate under this Act.

6 (5) Aiding or assisting another person in violating a
7 provision of this Act or its rules.

8 (6) Failing to provide information within 60 days in
9 response to a written request made by the Department.

10 (7) Engaging in dishonorable, unethical, or
11 unprofessional conduct of a character likely to deceive,
12 defraud, or harm the public, as defined by rule of the
13 Department.

14 (8) Discipline by another United States jurisdiction,
15 governmental agency, unit of government, or foreign
16 nation, if at least one of the grounds for discipline is
17 the same or substantially equivalent to those set forth in
18 this Section.

19 (9) Directly or indirectly giving to or receiving from
20 a person, firm, corporation, partnership, or association a
21 fee, commission, rebate, or other form of compensation for
22 professional services not actually or personally rendered.
23 Nothing in this paragraph (9) affects any bona fide
24 independent contractor or employment arrangements among
25 health care professionals, health facilities, health care
26 providers, or other entities, except as otherwise

1 prohibited by law. Any employment arrangements may include
2 provisions for compensation, health insurance, pension, or
3 other employment benefits for the provision of services
4 within the scope of the certificate holder's practice under
5 this Act. Nothing in this paragraph (9) shall be construed
6 to require an employment arrangement to receive
7 professional fees for services rendered.

8 (10) A finding by the Department that the certificate
9 holder, after having his or her certificate placed on
10 probationary status, has violated the terms of probation.

11 (11) Willfully making or filing false records or
12 reports in his or her practice, including, but not limited
13 to, false records or reports filed with State agencies.

14 (12) Willfully making or signing a false statement,
15 certificate, or affidavit to induce payment.

16 (13) Willfully failing to report an instance of
17 suspected child abuse or neglect as required under the
18 Abused and Neglected Child Reporting Act.

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

26 (15) Failure to report to the Department (A) any

1 adverse final action taken against the certificate holder
2 by another certifying or licensing jurisdiction,
3 government agency, law enforcement agency, or any court or
4 (B) liability for conduct that would constitute grounds for
5 action as set forth in this Section.

6 (16) Habitual or excessive use or abuse of drugs
7 defined in law as controlled substances, alcohol, or any
8 other substance that results in the inability to practice
9 with reasonable judgment, skill, or safety.

10 (17) Physical or mental illness, including, but not
11 limited to, deterioration through the aging process or loss
12 of motor skills, which results in the inability to practice
13 the profession for which he or she is certified with
14 reasonable judgment, skill, or safety.

15 (18) Gross malpractice.

16 (19) Immoral conduct in the commission of an act
17 related to the certificate holder's practice, including,
18 but not limited to, sexual abuse, sexual misconduct, or
19 sexual exploitation.

20 (20) Violation of the Health Care Worker Self-Referral
21 Act.

22 (b) The Department may refuse to issue or may suspend
23 without hearing the certificate of a person who fails to file a
24 return, to pay the tax, penalty, or interest shown in a filed
25 return, or to pay a final assessment of the tax, penalty, or
26 interest as required by a tax Act administered by the

1 Department of Revenue, until the requirements of the tax Act
2 are satisfied in accordance with subsection (g) of Section
3 2105-15 of the Department of Regulation Law of the Civil
4 Administrative Code of Illinois.

5 (c) The determination by a circuit court that a certificate
6 holder is subject to involuntary admission or judicial
7 admission as provided in the Mental Health and Developmental
8 Disabilities Code operates as an automatic suspension. The
9 suspension will end only upon (1) a finding by a court that the
10 patient is no longer subject to involuntary admission or
11 judicial admission, (2) issuance of an order so finding and
12 discharging the patient, and (3) filing of a petition for
13 restoration demonstrating fitness to practice.

14 (d) The Department shall deny a certificate or renewal
15 authorized by this Act to a person who has defaulted on an
16 educational loan or scholarship provided or guaranteed by the
17 Illinois Student Assistance Commission or any governmental
18 agency of this State in accordance with paragraph (5) of
19 subsection (a) of Section 2105-15 of the Department of
20 Regulation Law of the Civil Administrative Code of Illinois.

21 (e) In cases where the Department of Healthcare and Family
22 Services has previously determined a certificate holder or a
23 potential certificate holder is more than 30 days delinquent in
24 the payment of child support and has subsequently certified the
25 delinquency to the Department, the Department may refuse to
26 issue or renew or may revoke or suspend that person's

1 certificate or may take other disciplinary action against that
2 person based solely upon the certification of delinquency made
3 by the Department of Healthcare and Family Services in
4 accordance with paragraph (5) of subsection (a) of Section
5 2105-15 of the Department of Professional Regulation Law of the
6 Civil Administrative Code of Illinois.

7 (f) In enforcing this Section, the Department, upon a
8 showing of a possible violation, may compel any individual
9 certified under this Act or any individual who has applied for
10 certification to submit to a mental or physical examination and
11 evaluation, or both, that may include a substance abuse or
12 sexual offender evaluation, at the expense of the Department.
13 The Department shall specifically designate the examining
14 physician licensed to practice medicine in all of its branches
15 or, if applicable, the multidisciplinary team involved in
16 providing the mental or physical examination and evaluation, or
17 both. The multidisciplinary team shall be led by a physician
18 licensed to practice medicine in all of its branches and may
19 consist of one or more or a combination of physicians licensed
20 to practice medicine in all of its branches, licensed
21 chiropractic physicians, licensed clinical psychologists,
22 licensed clinical social workers, licensed clinical
23 professional counselors, and other professional and
24 administrative staff. Any examining physician or member of the
25 multidisciplinary team may require any person ordered to submit
26 to an examination and evaluation pursuant to this Section to

1 submit to any additional supplemental testing deemed necessary
2 to complete any examination or evaluation process, including,
3 but not limited to, blood testing, urinalysis, psychological
4 testing, or neuropsychological testing.

5 The Department may order the examining physician or any
6 member of the multidisciplinary team to provide to the
7 Department any and all records, including business records,
8 that relate to the examination and evaluation, including any
9 supplemental testing performed. The Department may order the
10 examining physician or any member of the multidisciplinary team
11 to present testimony concerning this examination and
12 evaluation of the certificate holder or applicant, including
13 testimony concerning any supplemental testing or documents
14 relating to the examination and evaluation. No information,
15 report, record, or other documents in any way related to the
16 examination and evaluation shall be excluded by reason of any
17 common law or statutory privilege relating to communication
18 between the certificate holder or applicant and the examining
19 physician or any member of the multidisciplinary team. No
20 authorization is necessary from the certificate holder or
21 applicant ordered to undergo an evaluation and examination for
22 the examining physician or any member of the multidisciplinary
23 team to provide information, reports, records, or other
24 documents or to provide any testimony regarding the examination
25 and evaluation. The individual to be examined may have, at his
26 or her own expense, another physician of his or her choice

1 present during all aspects of the examination.

2 Failure of any individual to submit to mental or physical
3 examination and evaluation, or both, when directed, shall
4 result in an automatic suspension without a hearing until such
5 time as the individual submits to the examination. If the
6 Department finds a certificate holder unable to practice
7 because of the reasons set forth in this Section, the
8 Department shall require such certificate holder to submit to
9 care, counseling, or treatment by physicians approved or
10 designated by the Department as a condition for continued,
11 reinstated, or renewed certificate.

12 When the Secretary immediately suspends a certificate
13 under this Section, a hearing upon such person's certificate
14 must be convened by the Department within 15 days after such
15 suspension and completed without appreciable delay. The
16 Department shall have the authority to review the certificate
17 holder's record of treatment and counseling regarding the
18 impairment to the extent permitted by applicable federal
19 statutes and regulations safeguarding the confidentiality of
20 medical records.

21 Individuals certified under this Act and affected under
22 this Section shall be afforded an opportunity to demonstrate to
23 the Department that he or she can resume practice in compliance
24 with acceptable and prevailing standards under the provisions
25 of their certificate.

26 (g) All fines imposed under this Section shall be paid

1 within 60 days after the effective date of the order imposing
2 the fine or in accordance with the terms set forth in the order
3 imposing the fine.

4 Section 70. Suspension of certificate for failure to pay
5 restitution. The Department, without further process or
6 hearing, shall suspend the certificate of any person who has
7 been certified by court order as not having paid restitution to
8 a person under Section 8A-3.5 of the Illinois Public Aid Code
9 or under Section 17-10.5 or 46-1 of the Criminal Code of 1961
10 or the Criminal Code of 2012.

11 Section 75. Cease and desist order; injunctions.

12 (a) If a person violates a provision of this Act, the
13 Secretary, in the name of the People of the State of Illinois
14 through the Attorney General of the State of Illinois, or the
15 State's Attorney of a county in which the violation is alleged
16 to have occurred, may petition for an order enjoining the
17 violation or for an order enforcing compliance with this Act.
18 Upon the filing of a verified petition in court, the court may
19 issue a temporary restraining order without notice or bond and
20 may preliminarily and permanently enjoin the violation. If it
21 is established that the certificate holder has violated or is
22 violating the injunction, the court may punish the offender for
23 contempt of court. Proceedings under this Section shall be in
24 addition to, and not in lieu of, all other remedies and

1 penalties provided by this Act.

2 (b) If a person holds himself or herself out as a
3 phlebotomist without being certified under this Act, then any
4 certificate holder under this Act, interested party, or person
5 injured thereby, in addition to the Secretary or State's
6 Attorney, may petition for relief as provided in subsection (a)
7 of this Section.

8 (c) If the Department determines that a person violated a
9 provision of this Act, the Department may issue a rule to show
10 cause why an order to cease and desist should not be entered
11 against him or her. The rule shall clearly set forth the
12 grounds relied upon by the Department and shall provide a
13 period of 7 days from the date of the rule to file an answer to
14 the satisfaction of the Department. Failure to answer to the
15 satisfaction of the Department shall cause an order to cease
16 and desist to be issued immediately.

17 Section 80. Investigation; notice; hearing. The Department
18 may investigate the actions of a person applying for, holding,
19 or claiming to hold a certificate. The Department shall, before
20 refusing to issue or renew a certificate or taking other
21 disciplinary or non-disciplinary action pursuant to Section 65
22 of this Act, and at least 30 days prior to the date set for the
23 hearing, (i) notify in writing the applicant or certificate
24 holder of the charges made and the time and place for a hearing
25 of the charges, (ii) direct the applicant or certificate holder

1 to file a written answer to the Department under oath within 20
2 days after the service of the notice, and (iii) inform the
3 applicant or certificate holder that failure to file an answer
4 will result in default being taken against the applicant or
5 certificate holder.

6 Written notice and any notice in the subsequent proceeding
7 may be served by registered or certified mail to the
8 applicant's or certificate holder's address of record. If the
9 person fails to file an answer after receiving notice, his or
10 her certificate may, in the discretion of the Department, be
11 suspended, revoked, or placed on probationary status or the
12 Department may take whatever disciplinary or non-disciplinary
13 action deemed proper, including limiting the delegated tasks or
14 the imposition of a fine, without a hearing, if the act or acts
15 charged constitute sufficient grounds for such action under
16 this Act. At the time and place fixed in the notice, the
17 Department shall proceed to hearing of the charges, and the
18 parties and their counsel shall be afforded ample opportunity
19 to present any pertinent statements, testimony, evidence, and
20 arguments. The Department may continue a hearing from time to
21 time.

22 Section 85. Confidentiality. All information collected by
23 the Department in the course of an examination or investigation
24 of an applicant or certificate holder, including, but not
25 limited to, any complaint against a certificate holder filed

1 with the Department and information collected to investigate
2 any such complaint shall be maintained for the confidential use
3 of the Department and shall not be disclosed. The Department
4 shall not disclose the information to anyone other than law
5 enforcement officials, regulatory agencies that have an
6 appropriate regulatory interest as determined by the
7 Secretary, or a party presenting a lawful subpoena to the
8 Department. Information and documents disclosed to a federal,
9 State, county, or local law enforcement agency shall not be
10 disclosed by the agency for any purpose to any other agency or
11 person. A formal complaint filed against a certificate holder
12 by the Department or any order issued by the Department against
13 an applicant or certificate holder shall be a public record,
14 except as otherwise prohibited by law.

15 Section 90. Record of proceedings. The Department, at its
16 expense, shall preserve a record of all proceedings at a formal
17 hearing conducted pursuant to Section 80 of this Act. Any
18 certificate holder who is found to have violated this Act or
19 who fails to appear for a hearing to refuse to issue, restore,
20 or renew a certificate or to discipline a certificate holder
21 may be required by the Department to pay for the costs of the
22 proceeding. These costs are limited to costs for court
23 reporters, transcripts, and witness attendance and mileage
24 fees. All costs imposed under this Section shall be paid within
25 60 days after the effective date of the order imposing the

1 fine.

2 Section 95. Order for production of documents. A circuit
3 court, upon application of the Department, may order the
4 attendance and testimony of witnesses and the production of
5 relevant documents, papers, files, books, and records in
6 connection with a hearing or investigation. The court may
7 compel obedience to its order through contempt proceedings.

8 Section 100. Subpoena power.

9 (a) The Department may subpoena and bring before it any
10 person to take the oral or written testimony or compel the
11 production of any books, papers, records, or any other
12 documents that the Secretary or his or her designee deems
13 relevant or material to any investigation or hearing conducted
14 by the Department, with the same fees and mileage and in the
15 same manner as prescribed by law in judicial proceedings in
16 civil cases in circuit courts of this State.

17 (b) The Secretary, the hearing officer, or a certified
18 shorthand court reporter may administer oaths at any hearing
19 that the Department conducts. Notwithstanding any other
20 statute or Department rule to the contrary, all requests for
21 testimony, production of documents, or records shall be in
22 accordance with this Act.

23 Section 105. Disciplinary report. At the conclusion of the

1 hearing, the hearing officer shall present to the Secretary a
2 written report of his or her findings of fact, conclusions of
3 law, and recommendations. In the report, the hearing officer
4 shall make a finding of whether or not the charged applicant or
5 certificate holder violated a provision of this Act or its
6 rules.

7 Section 110. Motion for rehearing. In a case involving the
8 refusal to issue or renew a certificate or the discipline of a
9 certificate holder, a copy of the hearing officer's report
10 shall be served upon the respondent by the Department, as
11 provided under Section 20 of this Act. Within 20 days after the
12 service, the respondent may present to the Department a motion
13 in writing for a rehearing, which shall specify the particular
14 grounds for a rehearing. If no motion for rehearing is filed,
15 then upon the expiration of the time specified for filing the
16 motion, or if a motion for rehearing is denied, then upon the
17 denial the Secretary may enter an order in accordance with
18 recommendations of the Department, except as provided in
19 Section 115 or 120 of this Act. If the respondent orders a
20 transcript of the record from the reporting service and pays
21 for the transcript within the time for filing a motion for
22 rehearing, the 20-day period within which such a motion may be
23 filed shall commence upon the delivery of the transcript to the
24 respondent.

1 Section 115. Order of Secretary. The Secretary's order
2 shall be based on the recommendations contained in the
3 Department report unless the Secretary disagrees in any regard
4 with the report of the Department, in which case he or she may
5 issue an order in contravention of the report. The hearing
6 officer's report and Secretary's order are not admissible in
7 evidence against the person in a criminal prosecution brought
8 for a violation of this Act, but the hearing, report, and order
9 are not a bar to a criminal prosecution brought for the
10 violation of this Act.

11 Section 120. Hearing officer. The Secretary shall have the
12 authority to appoint an attorney licensed to practice law in
13 this State to serve as the hearing officer in a hearing
14 authorized under Section 90 of this Act. The hearing officer
15 shall have full authority to conduct the hearing. The hearing
16 officer shall report his or her findings of fact, conclusions
17 of law, and recommendations to the Department. If the Secretary
18 disagrees in any regard with the report of the Department, he
19 or she may issue an order in contravention of the report. The
20 Secretary shall provide a written explanation to the Department
21 on a deviation from the Department's report and shall specify
22 with particularity the reasons for his or her deviation in the
23 final order.

24 Section 125. Rehearing on order of Secretary. Whenever the

1 Secretary is not satisfied that substantial justice has been
2 achieved in the discipline of a certificate holder, the
3 Secretary may order a rehearing by the same or another hearing
4 officer.

5 Section 130. Order; prima facie proof. An order or a
6 certified copy of an order, over the seal of the Department and
7 purporting to be signed by the Secretary, shall be prima facie
8 proof that:

9 (1) the signature is the genuine signature of the
10 Secretary; and

11 (2) the Secretary is duly appointed and qualified.

12 Section 135. Restoration of certificate from discipline.
13 At any time after the successful completion of a term of
14 indefinite probation, suspension, or revocation of a
15 certificate, the Department may restore the certificate to
16 active status unless, after an investigation and a hearing, the
17 Secretary determines that restoration is not in the public
18 interest. No person whose certificate has been revoked as
19 authorized in this Act may apply for restoration of that
20 certificate until such time as provided for in the Civil
21 Administrative Code of Illinois.

22 Section 140. Surrender of certificate. Upon the revocation
23 or suspension of a certificate, the certificate holder shall

1 immediately surrender the certificate to the Department. If the
2 certificate holder fails to do so, the Department shall have
3 the right to seize the certificate.

4 Section 145. Summary suspension. The Secretary may
5 summarily suspend the certificate phlebotomist without a
6 hearing, simultaneously with the institution of proceedings
7 for a hearing provided for in Section 80 of this Act, if the
8 Secretary finds that evidence indicates that continuation in
9 practice would constitute an imminent danger to the public. If
10 the Secretary summarily suspends a certificate without a
11 hearing, a hearing by the Department shall be commenced within
12 30 days after the suspension has occurred and shall be
13 concluded as expeditiously as possible.

14 Section 150. Certificate of record. The Department shall
15 not be required to certify any record to a court or file an
16 answer in court or otherwise appear in a court in a judicial
17 review proceeding unless and until the Department has received
18 from the plaintiff payment of the costs of furnishing and
19 certifying the record, which costs shall be determined by the
20 Department. Exhibits shall be certified without cost. Failure
21 on the part of the plaintiff to file a receipt in court shall
22 be grounds for dismissal of the action.

23 Section 155. Administrative Review Law. All final

1 administrative decisions of the Department are subject to
2 judicial review under the Administrative Review Law and its
3 rules. The term "administrative decision" is defined as in
4 Section 3-101 of the Code of Civil Procedure. Proceedings for
5 judicial review shall be commenced in the circuit court of the
6 county in which the party seeking review resides. If the party
7 seeking review is not a resident of this State, venue shall be
8 in Sangamon County.

9 Section 160. Criminal penalties. A person who is found to
10 have knowingly violated Section 35 of this Act is guilty of a
11 Class A misdemeanor for a first offense and is guilty of a
12 Class 4 felony for a second or subsequent offense.

13 Section 165. Civil penalties.

14 (a) In addition to any other penalty provided by law, a
15 person who violates Section 35 of this Act shall pay a civil
16 penalty to the Department in an amount not to exceed \$10,000
17 for each offense as determined by the Department. The civil
18 penalty shall be assessed by the Department after a hearing is
19 held in accordance with the provisions set forth in this Act.

20 (b) The Department has the authority and power to
21 investigate any and all uncertified activity.

22 (c) The civil penalty assessed under this Act shall be paid
23 within 60 days after the effective date of the order imposing
24 the civil penalty. The order shall constitute a judgment and

1 may be filed and execution had on the judgment in the same
2 manner as a judgment from a court of record.

3 Section 170. The Regulatory Sunset Act is amended by adding
4 Section 4.37 as follows:

5 (5 ILCS 80/4.37 new)

6 Sec. 4.37. Act repealed on January 1, 2027. The following
7 Act is repealed on January 1, 2027:

8 The Phlebotomy Certification Act.